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John C. Danielson
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Trial Attorney

John A. Ponitz
Trial Attorney

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Kevin M. Stanko
Attorney



Grand Trunk Western Railroad Co.

Law Department

131 West Lafayette Blvd.
Detroit, Michigan 48226
(313) 962-2260

RECORDATION NO. 6424-E
Filed 1425

JAN 17 1985 - 2 20 PM

INTERSTATE COMMERCE COMMISSION

January 14, 1984

File: 352

5-018A01C

Mr. James H. Bain
Interstate Commerce Commission
Room 2215
12th and Constitution Ave., N.W.
Washington, D.C. 20423

JAN 19 1985
10:00
OFF

Dear Mr. Bain:

Enclosed for recordation with the Interstate Commerce Commission pursuant to 49 USC §11303 are counterparts of an assignment, assumption and consent agreement dated as of December 14, 1984. This document assigns certain interests of Security Pacific National Bank to Grand Trunk Western Railroad Company. These interests are contained in various documents which were filed with the Commission pursuant to §11303 and its predecessor §20(c) and assigned recordation numbers in the 6424 series. The last document recorded in that series according to our records was 6424-D recorded on August 1, 1972, it being an amendment of lease of railroad equipment. The parties to the current agreement are as follows:

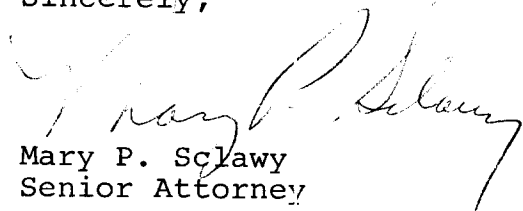
Seller:	Security Pacific National Bank c/o Security Pacific Equipment Leasing, Inc. 4 Embarcadero Center Suite 1200 San Francisco, CA 94111
Purchaser:	Grand Trunk Western Railroad Co. 131 W. Lafayette Blvd. Detroit, Michigan 48226
Lender:	John Hancock Mutual Life Ins. Co. John Hancock Plaza P. O. Box 111 Boston, Massachusetts 02117
Guarantor:	Canadian National Railway Co. 935 de La Gauchetiere Street, W. Montreal, Quebec H3B 2M9

Mr. James H. Bain
January 14, 1985
Page Two

The equipment subject to this agreement are twelve locomotives bearing Grand Trunk road numbers 5800 through 5811 inclusive.

Also enclosed is our check No. 1090 in the amount of \$10.00. Please accept one counterpart of the document for filing, stamp the remaining with your recordation number and return it and your fee receipt to the undersigned at the address set out above.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary P. Sclawy", is written over the typed name and title.

Mary P. Sclawy
Senior Attorney

MPS:mg
Enclosure

1/22/85

Interstate Commerce Commission
Washington, D.C. 20423

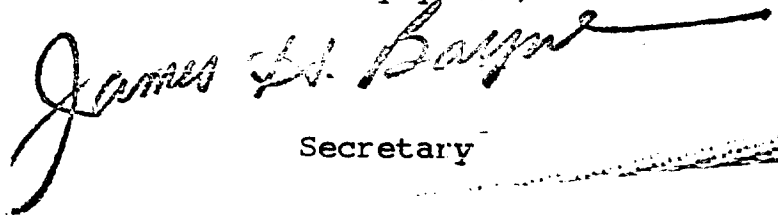
OFFICE OF THE SECRETARY

Mary P. Sclawy
Grand Trunk Western RR.Co.
131 West Lafayette Blvd.
Detroit , Michigan 48226

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/17/85 at 2:20pm and assigned re-recording number(s). 6424-E

Sincerely yours,


Secretary

Enclosure(s)

RECORDATION NO. 6424-E
JAN 17 1965 3 42 PM
FEDERAL RESERVE BANK
UNITED STATES DEPARTMENT OF COMMERCE
COMMISSION

ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT

Assignment, Assumption and Consent Agreement, dated as December 14, 1984 by and among Security Pacific National Bank ("Seller"), Grand Trunk Western Railroad Company ("Buyer"), John Hancock Mutual Life Insurance Company ("Lender") and Canadian National Railway Company ("Guarantor").

Reference is made to that certain Conditional Sale Agreement dated as of November 15, 1971 by and between Seller and General Motors Corporation (Electro Motive Division); as assigned to Lender under an Agreement and Assignment dated as of November 15, 1971, between General Motors Corporation (Electro-Motive Division) and Lender said agreements, collectively hereinafter referred to as the "CSA".

Reference is also made to that certain Lease of Railroad Equipment dated as of November 15, 1971 between Seller and Buyer as amended by Amendment of Lease of Railroad Equipment, dated as of November 15, 1971, by and among Seller and Buyer, and consented to by Lender and Guarantor, said agreements hereinafter collectively referred to as the "Lease".

Reference is also made to that certain Guaranty Agreement dated as of November 15, 1971 by and among Guarantor, Seller and Lender, hereinafter referred to as the "Guaranty".

WHEREAS, Seller is the sole beneficial owner of the 12, 2000 h.p. GP-38 AC diesel locomotives, Road Numbers 5800-5811 inclusive, (hereinafter referred to as the "Locomotives") and such rights as Seller may have under the Assignment of Purchase Agreement dated as of November 15, 1971, from Buyer to Seller subject to the lien in favor of the Lender under the CSA, and subject to the Buyer's rights as the "Lessee" under the Lease, and

WHEREAS, Seller has assigned certain of its rights, title and interest as "Lessor" under the ~~Lease to~~ Lender under the Collateral Assignment of Lease dated as of November 15, 1971, (hereinafter referred to as the "Collateral Assignment of Lease") and

WHEREAS, the transaction created by the CSA and the Lease is commonly known as, and is hereinafter called the "Leveraged Lease", and

WHEREAS, the Seller's interest in the Leveraged Lease consists of its rights under the CSA, the Assignment of Purchase Agreement, the Lease, the Guaranty, the Collateral Assignment of Lease and its title to the Locomotives under the CSA (hereinafter collectively called the "Seller's Interest").

WHEREAS, Seller desires to sell, assign, transfer and divest itself of its Seller's Interest, and

WHEREAS, Buyer desires to acquire the Seller's Interest,

NOW THEREFORE, in consideration of the premises, and receipt by Seller of \$1,272,000 and for other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Except as provided in Section 5 and 7 hereinbelow, Seller hereby conveys, transfers and assigns to Buyer all of its Seller's Interest.
2. Any and all sales taxes, transfer taxes, documentary taxes, filing fees, recording fees and the like are not included in the consideration for Seller's Interest and are solely for the account of Buyer.
3. Buyer represents and warrants that (i) Buyer has made such investigation and such inspection of the Locomotives it deems necessary and desirable with respect to its acquisition of the Seller's Interest and its assumption of obligations under and pursuant to the CSA, the Lease and the other agreements and instruments executed pursuant thereto or in connection with this Assignment, Assumption and Consent Agreement, (ii) the execution and performance hereof has been authorized by all necessary corporate action on the part of Buyer, and this Assignment, Assumption and Consent Agreement has been duly executed and delivered by Buyer, (iii) no approval, consent, order, authorization of or registration with or notice to any federal, state or other governmental authority is required of Buyer pursuant hereto, and (iv) Buyer is acquiring its interest in the CSA and the Lease for its own account and not with a view to the disposition of the same to others.
4. Seller represents and warrants that (i) it is the sole beneficial owner of the Seller's Interest, (ii) that there are no liens or encumbrances on the Seller's Interest or the Locomotives other than (a) Buyer's rights as the Lessee under the Lease, (b) the rights of the Lender, and (c) any liens and encumbrances which are the responsibility of Buyer as the Lessee under the Lease to discharge pursuant to the terms of the Lease, (iii) that the execution and performance hereof has been authorized by all necessary corporate action on the part of Seller, and this Assignment, Assumption and Consent Agreement has been duly

executed and delivered by Seller, (iv) no approval, consent, order, authorization of or registration with or notice to any federal, state or other governmental authority is required of Seller pursuant hereto, (v) neither Seller, nor anyone acting on its behalf has directly or indirectly offered the Seller's interest for sale to, or solicited offers, such as to bring this Assignment, Assumption and Consent Agreement within the registration requirements of the Securities Act of 1933, (vi) Seller has fully complied with its obligations under the CSA and the documents referred to therein, and Seller is not in breach or default nor has Seller caused an event of default to occur under, nor has Seller taken any action or failed to take any action which with notice or lapse of time or both would cause a breach, or default under the CSA or the Lease or any document related to any of the foregoing and Seller has no knowledge of any breaches or defaults by any other party under or of any actions or failures to take action by any other party which with notice or lapse of time or both would cause a breach or default thereunder, (vii) Seller has not authorized, and has no knowledge of any waivers, releases, or amendments to the CSA or the Lease, (viii) no indemnities are accrued and outstanding by Seller to the Lender, (ix) Seller assumes the risk of any loss or disallowance of the investment credit as well as any other adverse consequences to Seller's income tax position resulting from the transactions contemplated by this Assignment, Assumption and Consent Agreement (x) Seller makes no other representations or warranties, express or implied with regard to any matter whatsoever, including but not limited to (A) the validity or enforceability of any specific provision of the CSA, the Lease, the Guaranty and the other documents and instruments issued and executed pursuant thereto or in connection therewith, (B) the condition, merchantability, or fitness for use of the Locomotives, or (C) the further assignability of the Seller's Interest by Buyer.

5. It is understood and agreed by Buyer that Seller's rights to the income tax indemnities provided under the terms of the Lease and are unique to Seller, and as such are inapplicable to Buyer and any of its successors and assigns, and as such no interest therein is conveyed, transferred or assigned to Buyer.

6. Buyer acknowledges that as of the date hereof, Buyer assumes the risk of loss with respect to the Seller's Interest acquired pursuant to this Assignment, Assumption and Consent Agreement, and has obtained such insurance, endorsements and/or binders as it deems necessary or desirable with respect to such loss and any potential third party liability.

7. It is understood that Seller remains liable to the Buyer and Lender for the imposition or enforcement of any lien or claim by any taxing authority because of the nonpayment by Seller of taxes imposed upon or measured by the net income of Seller. Buyer hereby agrees to continue to indemnify and hold Seller and Lender harmless from any and all actual or asserted liabilities and indemnity obligations arising from any cause whatsoever pursuant to the provisions of the eighth paragraph of Section 8 of the Lease, excepting only such liabilities and indemnities caused by the acts and omissions of Seller. Buyer further agrees it will not, without the prior written consent of Seller, which consent shall not be unreasonably withheld, agree, or cause the Lender to agree, to any amendments to the CSA or Lease reducing Seller's rights to indemnity thereunder.

8. The assignment and transfer of Seller's Interest from Seller to Buyer herein are made pursuant to Article 15 of the CSA, and pursuant thereto, such assignment and transfer are made and shall be expressly subject in all respects to the rights and remedies of Lender. In furtherance thereof, Buyer hereby assumes and agrees to perform on and after December 14, 1984, all the duties and obligations of the Seller under the CSA, and Buyer confirms and agrees to continue to perform all its obligations as the Lessee under the Lease for the benefit of Lender, with the sole exception that the rental obligations therein shall be deemed amended to coincide in time and amounts to the periodic payments due Lender under the CSA.

9. Lender hereby acknowledges and consents to the assignment and transfer of Seller's Interest from Seller to Buyer as herein provided.

10. Guarantor hereby acknowledges and consents to the assignment and transfer of Seller's Interest from Seller to Buyer as herein provided, and hereby confirms and reaffirms for the benefit of Lender and Seller, its obligations to the extent provided in and pursuant to the Guaranty.

11. In the event of any action resulting from the breach or default of any representation, warranty or agreement hereunder, the prevailing party shall be entitled to its costs of suit, including reasonable attorneys' fees.

12. Attached hereto for reference, as Exhibit A, copies of the documents referred to herein.

13. This Assignment, Assumption and Consent Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

Executed and delivered as of this 14th day of December, 1984.

GRAND TRUNK WESTERN
RAILROAD COMPANY

By _____
(Title)

Attest: _____
(SEAL)

SECURITY PACIFIC NATIONAL BANK

By Frank C. Hylton Jr. 1250 P. St. N.W.
(Title)

Attest: [Signature]
(SEAL) Vice President & Assoc. Counsel

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY

By [Signature]
(Title)

Attest: _____
(SEAL)

CANADIAN NATIONAL RAILWAY
COMPANY

By _____
(Title)

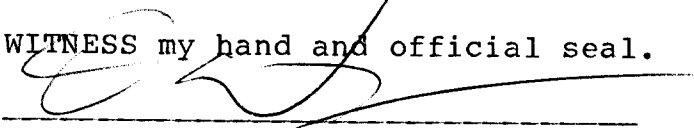
Attest: _____
(SEAL)

STATE OF CALIFORNIA

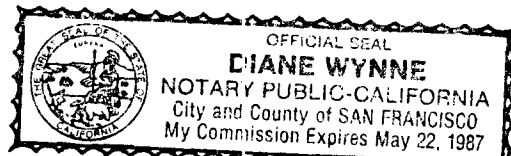
STATE OF CALIFORNIA)
)SS.
COUNTY OF SAN FRANCISCO)

On December 12, 1984, before me, the undersigned, a Notary Public in and for the State of California, personally appeared FRANK C. HIGHAM, JR. and STEPHAN R. SILEN personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed the within instrument as First Vice President & Counsel and Vice President & Associate Counsel, respectively, of SECURITY PACIFIC NATIONAL BANK, the association that executed the within instrument, and acknowledged to me that such association executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.



Notary Public



STATE OF MICHIGAN

SS:

COUNTY OF WAYNE

On this _____ day of December, 1984, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a _____ of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

Notary Public

My Commission expires _____

PROVINCE OF _____

SS:

On this _____ day of December, 1984, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a _____ of CANADIAN NATIONAL RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

Notary Public

My Commission expires _____

COMMONWEALTH OF MASSACHUSETTS

SS:

COUNTY OF SUFFOLK

On this 14th day of December, 1984, before me personally appeared Ernest B. Whitley, to me personally known, who, being by me duly sworn, says that he is a Investment Officer, of JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

Marie C. O'Brien
Notary Public

My Commission expires _____

MARIE C. O'BRIEN, Notary Public
MY COMMISSION EXPIRES SEPTEMBER 1, 1989

[COMPOSITE CONFORMED COPY]

CONDITIONAL SALE AGREEMENT

Dated as of November 15, 1971

between

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

and

SECURITY PACIFIC NATIONAL BANK

Filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on December 14, 1971, at 10:35 A.M., Recordation No. 6424; and deposited in the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada on December 15, 1971, at 3:45 P.M.

CONDITIONAL SALE AGREEMENT dated as of November 15, 1971, between the corporation named in Item 1 of Annex A hereto (hereinafter called the Vendor or Manufacturer, as more particularly set forth in Article 26 hereof) and SECURITY PACIFIC NATIONAL BANK, a national banking association (hereinafter sometimes called the Company).

WHEREAS the Manufacturer has agreed to construct, sell and deliver to the Company, and the Company has agreed to purchase, the railroad equipment described in Annex B hereto (hereinafter called the Equipment);

WHEREAS the Company is executing a lease of the Equipment as of the date hereof to Grand Trunk Western Railroad Company, as lessee (hereinafter called the Lessee) in substantially the form annexed hereto as Annex C (hereinafter called the Lease); and

WHEREAS the Lessee is assigning to the Company, pursuant to an Assignment of Purchase Agreement dated as of the date hereof in substantially the form annexed hereto as Annex D, a certain purchase agreement or agreements between the Lessee and the Manufacturer covering the Equipment;

Now, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. *Construction and Sale.* Pursuant to this Agreement, the Manufacturer will construct the Equipment at its plant set forth in Annex B hereto and will sell and deliver the Equipment to the Company and the Company will purchase from the Manufacturer and accept delivery

of and pay for (as hereinafter provided) the Equipment, each unit of which will be new standard-gauge railroad equipment constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may have been agreed upon in writing by the Manufacturer and the Lessee (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of the Equipment will conform to all Interstate Commerce Commission and Department of Transportation requirements and specifications reasonably interpreted as being applicable to railroad equipment of the character of the Equipment as of the date of this Agreement.

ARTICLE 2. *Delivery.* The Manufacturer will deliver the various units of the Equipment to the Company at the point specified in, and in accordance with, the delivery schedule set forth in Annex B hereto; *provided, however,* that no delivery of any unit of the Equipment shall be made until this Agreement and the Lease have been filed pursuant to Article 20 hereto.

The Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Manufacturer's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials.

Notwithstanding the preceding provisions of this Article 2, any Equipment not delivered, accepted and settled for pursuant to Article 3 hereof on or before December 31, 1971 (unless such date is extended by the Company and the Vendor by appropriate written agreement), shall be ex-

cluded from this Agreement and not included in the term "Equipment" as used in this Agreement. In the event of any such exclusion, the Vendor and the Company shall execute an agreement supplemental hereto limiting this Agreement to the Equipment theretofore delivered, accepted and settled for hereunder.

The Equipment shall be subject to inspection and approval prior to delivery by inspectors or other authorized representatives of the Company (who may be employees of the Lessee), and the Manufacturer shall grant to such inspectors or such authorized representatives reasonable access to its plant. From time to time upon the completion of the construction of each unit or of a number of units of the Equipment, such unit or units shall be presented to such inspector or other authorized representative of the Company for inspection at the place designated for delivery of the Equipment and, if each such unit conforms to the Specifications, such inspector or representative shall execute and deliver to the Manufacturer, in such number of counterparts or copies as may reasonably be requested, a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Company, conform to the Specifications and to all applicable Interstate Commerce Commission and Department of Transportation requirements and specifications and are marked in accordance with the provisions of Article 8 hereof; *provided, however*, that the Manufacturer shall not thereby be relieved of its warranty contained in Item 2 of Annex A hereto.

On delivery of each of the units of Equipment hereunder and acceptance thereof on behalf of the Company as aforesaid, the Company assumes with respect thereto the responsibility and risk of loss.

ARTICLE 3. *Purchase Price and Payment.* The base price per unit of the Equipment is set forth in Annex B hereto. The base price is subject to such increase or decrease as is agreed to by the Manufacturer, the Company and the Lessee, but may not be increased by more than 5% without the written approval of any assignee of the Manufacturer. The term "Purchase Price" as used herein shall mean the base price as so increased or decreased. If on any Closing Date (as hereinafter defined) the aggregate of the Invoiced Purchase Prices (as hereinafter defined in this Article 3) of the units of the Equipment for which settlement has theretofore and is then being made under this Agreement, would, but for the provisions of this sentence, exceed \$2,700,000, the Manufacturer (and any assignee of the Manufacturer) and the Company will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for, specified by the Company, as will, after giving effect to such exclusion, reduce such aggregate of the Invoiced Purchase Prices under this Agreement to not more than \$2,700,000.

The Equipment shall be settled for in not more than two groups (the Equipment being settled for in each such group being hereinafter called a Group). The term "Closing Date" with respect to each Group shall mean such date, not earlier than December 1, 1971, occurring not more than ten days following presentation by the Manufacturer to the Company of the invoice and the Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Manufacturer and the Lessee by telephonic or telegraphic notice (confirmed in writing) to the Company and the Vendor at least five business days prior to the Closing Date designated therein (or such lesser number of days as may be agreed to by the Company and the Vendor). The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays.

Subject to the conditions specified in the last paragraph of this Article 3, the Company hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) On the Closing Date with respect to each Group (i) an amount equal to 30% of the aggregate Purchase Price of such Group, as set forth in the invoice or invoices therefor (said invoiced purchase price being herein called the Invoiced Purchase Price), plus (ii) the amount by which (x) 70% of the aggregate Invoiced Purchase Price of all units of the Equipment covered by this Agreement for which settlement has theretofore and is then being made exceeds (y) the sum of \$1,890,000, and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to clause (ii) of this subparagraph (a); and

(b) In 20 consecutive semiannual instalments, as hereinafter provided, an amount equal to the aggregate of the Invoiced Purchase Price of the units of the Equipment in the Group for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The first instalment of the portion of the Purchase Price of each Group of the Equipment payable pursuant to subparagraph (b) of the preceding paragraph (such portion being herein called the Conditional Sale Indebtedness) shall be payable on July 15, 1977, and subsequent instalments shall be payable semiannually thereafter on each January 15 and July 15, to and including January 15, 1987 (or, if any such date is not a business day, on the next succeeding

business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness in respect of a Group shall bear interest from the Closing Date upon which such Conditional Sale Indebtedness was incurred at the rate of 8% per annum and such interest shall be payable, to the extent accrued, on January 15 and July 15 of each year, commencing January 15, 1972. The principal amount of Conditional Sale Indebtedness payable on each of the 20 semiannual Payment Dates shall be calculated on such a basis that the aggregate of the principal and interest payable on each Payment Date shall be substantially equal and such 20 instalments of principal will completely amortize the Conditional Sale Indebtedness. The Company will furnish to the Vendor and the Lessee promptly after each Closing Date a schedule showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Company will pay interest at the rate of 9% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 5 hereof, the Company shall not have the privilege of prepaying the Conditional Sale Indebtedness prior to the dates it becomes due.

The parties hereto contemplate (subject to the limitations set forth in the first paragraph of this Article 3) that the Company will furnish that portion of the Purchase Price of each Group of the Equipment as is required under subparagraph (a) of the third paragraph of this Article 3 and

that an amount equal to the balance of such Purchase Price shall be paid to the Manufacturer by an assignee of the Manufacturer's right, title and interest under this Agreement pursuant to an agreement and assignment (hereinafter called the Assignment) between the Manufacturer and John Hancock Mutual Life Insurance Company (hereinafter called the Assignee).

It is agreed that the obligation of the Company to pay to the Vendor any amount required to be paid pursuant to the third paragraph of this Article 3 with respect to any Group of Equipment is specifically subject to the following conditions:

(a) no event of default under the Lease, nor any event which with the lapse of time and/or notice provided for herein or in the Lease would constitute such an event of default shall have occurred and be continuing;

(b) the Assignee shall have paid or caused to have been paid to the Manufacturer the amounts contemplated to be paid by it as provided in the preceding paragraph of this Article 3 and in the Assignment; and

(c) the Company shall have received signed counterparts of all documents required by the terms of the Assignment to be delivered to the Assignee in respect of payment for such Group of Equipment, the opinions of counsel required by § 14 of the Lease, and such other documents as the Company may reasonably request.

Notwithstanding any other provisions of this Agreement, it is understood and agreed by the Vendor that liability of the Company for all payments to be made by it under and pursuant to this Agreement, with the exception only of the payments to be made pursuant to subparagraph (a) of the third paragraph of Article 3 hereof and Articles 20 and

21 hereof and payments under Article 12 hereof resulting from claims against the Company not related to the ownership by the Company of the Equipment, shall not exceed an amount equal to the income and proceeds from the Equipment, and such payments shall be made by the Company only to the extent that the Company shall have actually received sufficient "income or proceeds from the Equipment" to make such payments. Except as provided in the next preceding sentence, the Vendor agrees that the Company shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Company as above provided. In addition, the Vendor agrees and understands that the Company (i) makes no representation or warranty, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease in so far as it relates to the Lessee (or any document relative thereto) or of any of the obligations thereunder of the Lessee or its guarantor under the Lease (such guarantor being hereinafter called the Guarantor) and (ii) shall have no obligation, duty or other liability whatsoever to see to or be responsible for the performance or observance by the Lessee or the Guarantor of any of their agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Equipment and to the Vendor's rights under the Lease against the Lessee, the Guarantor and the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean, if one of the events of default specified in Article 16 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received

by the Company at any time after such event and during the continuance thereof: (a) all amounts of rental (or damages under clause (i) of subparagraph (b) of § 9 of the Lease) and amounts in respect of Casualty Occurrences paid for or with respect to the Equipment pursuant to the Lease and payments equivalent to such amounts and (b) any and all payments or proceeds received by the Company for or with respect to the Equipment as the result of the sale, lease or other disposition thereof and after deducting all costs and expenses of such sale, lease or other disposition, and shall mean at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Company and as shall equal the portion of the Conditional Sale Indebtedness (including payments in respect of Casualty Occurrences) and/or interest thereon then due and payable or due and payable on the January 15 or July 15 next succeeding the date such amounts received by the Company were required to be paid to it pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement. It is further specifically understood and agreed that nothing contained herein limiting the liability of the Company shall derogate from the right of the Vendor to proceed against the Equipment or the Lessee or any guarantor of the obligations of the Lessee as provided for herein or in the Lease or otherwise for the full unpaid Purchased Price of the Equipment and interest thereon or any other payment due and payable hereunder. The Vendor agrees, however, that in the event it shall obtain a judgment against the Company for an amount in excess of the amounts payable by the Company pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount.

ARTICLE 4. *Title to the Equipment.* The Vendor shall and hereby does retain security title to and property in the Equipment until the Company shall have made all the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Company or the Lessee as herein provided. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof shall constitute accessions to the Equipment (except such as can be removed without damage to and without impairing the originally intended function or use of the Equipment, including, without limitation, racks or partitions, and which have been added to the Equipment by the Company or the Lessee, the cost of which is not included in the Purchase Price of the Equipment and which are not required for the operation or use of the Equipment) and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 5 hereof, when and only when the Vendor shall have been paid the full amount of the Purchase Price of all the Equipment, together with interest and all other payments as herein provided, and all the Company's obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Company without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Company, will execute appropriate instruments confirming such passage to the Company of title to and property in the Equipment free of all liens, security interests and other encumbrances created or retained hereby and deliver such instruments to the Company at its address specified in Article 22 hereof, and will execute in the same

the Equipment shall be operated relating to such names and word or words for use on railroad equipment covered by conditional sale agreements. The cost of marking such names and word or words with respect to the first assignee of this Agreement shall be borne by the Manufacturer. The cost of marking such names and word or words in connection with any subsequent assignment (other than to an agent bank or any successor agent bank) shall be borne by the subsequent assignee.

In the event of any such assignment, the Company will, in connection with settlement for any Group of the Equipment, deliver to the assignee of the units of the Equipment in such Group, at least five business days prior to the Closing Date in respect of such Group (or such lesser number of days as such assignee shall agree to), all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement (except for any opinion of counsel for the assignee), in such number of counterparts as may reasonably be requested.

ARTICLE 16. *Defaults.* In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) The Company shall fail to pay in full any sum payable by the Company when payment thereof shall be due hereunder and such default shall continue for 10 days; or

(b) The Company shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) Any proceedings shall be commenced by or against the Company for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Company under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Company or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(d) The Company shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment; or

(e) An Event of Default shall occur under the Lease;

then at any time after the occurrence of such an Event of Default the Vendor may, upon written notice to the Company and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the rights of the Lessee referred to in Article 11

hereof, cause the Lease immediately upon such notice to terminate (and the Company acknowledges the right of the Vendor to terminate the Lease) and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such Purchase Price and such interest shall bear interest from the date of such declaration at the rate of 9% per annum and the Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Company (subject to the provisions of the last paragraph of Article 3 hereof) wherever situated.

The Vendor may waive any such event of default and its consequences and rescind any Declaration of Default or notice of termination of the Lease by notice to the Company in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such default had existed and no Declaration of Default or notice of termination of the Lease had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Company that time is of the essence of this Agreement and that no such waiver or rescission shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 17. *Remedies.* At any time during a Declaration of Default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Vendor (subject to the rights of the Lessee under the Lease referred to in Article 11 here-

of) take or cause to be taken by its agent or agents immediate possession of the Equipment, or any unit thereof, without liability to return to the Company any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Company or anyone having such possession and use and for such purpose may enter upon the premises of the Company or the Lessee or wherever the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Company or the Lessee, with or without process of law.

In case the Vendor shall demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Lessee for the delivery of the Equipment to the Vendor, the Company shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall reasonably be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines of railroad or premises of the Lessee until the earlier of (x) the date the Vendor shall have leased, sold or otherwise disposed of the same or (y) the 270th day from the date the Equipment shall have been placed for storage on such lines or premises. For such purpose the Company agrees to cause to be furnished, without charge for rent or storage, the necessary facilities at any reasonably convenient point or points selected by the Vendor. This agreement to deliver the Equipment as hereinbefore provided is of the essence of this agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises,

the Vendor shall be entitled to a decree against the Company requiring specific performance hereof. The Company hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Company by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice within 30 days after a Declaration of Default. In the event that the Vendor should elect to retain the Equipment, and no objection is made thereto within the 30-day period described in the second proviso below, all rights of the Company in the Equipment will thereupon terminate and all payments made by the Company may be retained by the Vendor as compensation for the use of the Equipment; *provided, however*, that if the Company, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Company; and *provided, further, however*, that if the Company or any other person notified under the terms of

this paragraph shall object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law.

The Vendor, with or without the retaking of possession thereof, at its election and upon reasonable notice to the Company and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Company, or of any other party (including the Lessee) claiming by, through or under the Company, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; *provided, however*, that if prior to such sale or prior to the making of a contract for such sale, the Company should tender full payment of the entire indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking, holding and preparing the Equipment for disposition and arrangement for the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Company. The proceeds of such sale, or of any lease or other disposition of the Equipment as provided hereunder, less the attorneys' fees and any other expenses incurred by the Vendor in taking possession of, removing, storing and so disposing of the Equipment, shall be credited against the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety, or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine; *provided, however*, that the Company shall be given written notice of such sale as provided hereinabove. The Vendor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale without accountability to the Company (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor from the Company hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay, except where time limits are expressly herein provided, or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

All sums of money realized by the Vendor under the remedies herein provided shall be applied, *first* to the payment of the expenses and liabilities of the Vendor herein undertaken to be paid, *second* to the payment of interest

on the unpaid Purchase Price of the Equipment accrued and unpaid and *third* to the payment of the unpaid Purchase Price of the Equipment. If, after applying as aforesaid all sums of money realized by the Vendor, there shall remain any amount due to it under the provisions of this Agreement, the Company, subject to the provisions of the last paragraph of Article 3 hereof, shall pay the amount of such deficiency to the Vendor upon demand, and, if the Company shall fail to pay the full deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Company. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Company.

The Company, subject to the provisions of the last paragraph of Article 3 hereof, will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 17 are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

ARTICLE 18. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any state shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Company

to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any unit thereof, and any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Vendor's rights hereunder and any and all rights of redemption.

ARTICLE 19. *Extension not a Waiver.* Any extension of time for payment hereunder or other indulgence duly granted to the Company shall not otherwise alter or affect the Vendor's rights or the obligations of the Company hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 20. *Recording.* Prior to the delivery and acceptance of any unit of the Equipment, the Company will cause this Agreement, any assignments hereof by the Company and any supplements hereto and thereto, and prior to the settlement for such unit, the Company will cause any assignment hereof by the Manufacturer and any supplement thereto, in each case (i) to be filed, registered, recorded or deposited and refiled, reregistered, rerecorded or redeposited, with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, (ii) to be deposited in the office of the Registrar General of Canada (and will cause the required notice of

such deposit forthwith thereafter to be published in *The Canada Gazette*) in accordance with Section 86 of the Railway Act of Canada (1970-RSC), and (iii) to be filed in the office of the Minister of Financial and Commercial Affairs of the Province of Ontario, Canada in accordance with Section 3(1) of the Conditional Sales Act of Ontario. The Company will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or re-deposit whenever required) any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection in the United States and the Province of Ontario, Canada, to the satisfaction of the Vendor and its counsel, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and any assignment hereof. The Company will promptly furnish to the Vendor evidences of such filing, registering, depositing or recording and of such publication of notice of such deposit and an opinion or opinions of counsel with respect thereto, each satisfactory to the Vendor and its counsel.

ARTICLE 21. *Payment of Expenses.* The Company will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Manufacturer) incident to the preparation and execution of this Agreement and the first assignment of this Agreement and, if the first assignee is not acting as an agent or trustee, any subsequent assignment to such an agent or trustee (including the fees and expenses of such agent or trustee or successor thereto), or any instrument supplemental thereto, including all reasonable fees and expenses of special counsel for the first assignee of this Agreement.

ARTICLE 22. *Notice.* Any notice hereunder to any party designated below shall be deemed to be properly

the Equipment shall be operated relating to such names and word or words for use on railroad equipment covered by conditional sale agreements. The cost of marking such names and word or words with respect to the first assignee of this Agreement shall be borne by the Manufacturer. The cost of marking such names and word or words in connection with any subsequent assignment (other than to an agent bank or any successor agent bank) shall be borne by the subsequent assignee.

In the event of any such assignment, the Company will, in connection with settlement for any Group of the Equipment, deliver to the assignee of the units of the Equipment in such Group, at least five business days prior to the Closing Date in respect of such Group (or such lesser number of days as such assignee shall agree to), all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement (except for any opinion of counsel for the assignee), in such number of counterparts as may reasonably be requested.

ARTICLE 16. *Defaults.* In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) The Company shall fail to pay in full any sum payable by the Company when payment thereof shall be due hereunder and such default shall continue for 10 days; or

(b) The Company shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) Any proceedings shall be commenced by or against the Company for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Company under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Company or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(d) The Company shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment; or

(e) An Event of Default shall occur under the Lease;

then at any time after the occurrence of such an Event of Default the Vendor may, upon written notice to the Company and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the rights of the Lessee referred to in Article 11

hereof, cause the Lease immediately upon such notice to terminate (and the Company acknowledges the right of the Vendor to terminate the Lease) and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such Purchase Price and such interest shall bear interest from the date of such declaration at the rate of 9% per annum and the Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Company (subject to the provisions of the last paragraph of Article 3 hereof) wherever situated.

The Vendor may waive any such event of default and its consequences and rescind any Declaration of Default or notice of termination of the Lease by notice to the Company in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such default had existed and no Declaration of Default or notice of termination of the Lease had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Company that time is of the essence of this Agreement and that no such waiver or rescission shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 17. *Remedies.* At any time during a Declaration of Default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Vendor (subject to the rights of the Lessee under the Lease referred to in Article 11 here-

of) take or cause to be taken by its agent or agents immediate possession of the Equipment, or any unit thereof, without liability to return to the Company any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Company or anyone having such possession and use and for such purpose may enter upon the premises of the Company or the Lessee or wherever the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Company or the Lessee, with or without process of law.

In case the Vendor shall demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Lessee for the delivery of the Equipment to the Vendor, the Company shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall reasonably be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines of railroad or premises of the Lessee until the earlier of (x) the date the Vendor shall have leased, sold or otherwise disposed of the same or (y) the 270th day from the date the Equipment shall have been placed for storage on such lines or premises. For such purpose the Company agrees to cause to be furnished, without charge for rent or storage, the necessary facilities at any reasonably convenient point or points selected by the Vendor. This agreement to deliver the Equipment as hereinbefore provided is of the essence of this agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises,

the Vendor shall be entitled to a decree against the Company requiring specific performance hereof. The Company hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Company by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice within 30 days after a Declaration of Default. In the event that the Vendor should elect to retain the Equipment, and no objection is made thereto within the 30-day period described in the second proviso below, all rights of the Company in the Equipment will thereupon terminate and all payments made by the Company may be retained by the Vendor as compensation for the use of the Equipment; *provided, however*, that if the Company, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Company; and *provided, further, however*, that if the Company or any other person notified under the terms of

this paragraph shall object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law.

The Vendor, with or without the retaking of possession thereof, at its election and upon reasonable notice to the Company and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Company, or of any other party (including the Lessee) claiming by, through or under the Company, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; *provided, however*, that if prior to such sale or prior to the making of a contract for such sale, the Company should tender full payment of the entire indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking, holding and preparing the Equipment for disposition and arrangement for the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Company. The proceeds of such sale, or of any lease or other disposition of the Equipment as provided hereunder, less the attorneys' fees and any other expenses incurred by the Vendor in taking possession of, removing, storing and so disposing of the Equipment, shall be credited against the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety, or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine; *provided, however*, that the Company shall be given written notice of such sale as provided hereinabove. The Vendor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale without accountability to the Company (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor from the Company hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay, except where time limits are expressly herein provided, or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

All sums of money realized by the Vendor under the remedies herein provided shall be applied, *first* to the payment of the expenses and liabilities of the Vendor herein undertaken to be paid, *second* to the payment of interest

on the unpaid Purchase Price of the Equipment accrued and unpaid and *third* to the payment of the unpaid Purchase Price of the Equipment. If, after applying as aforesaid all sums of money realized by the Vendor, there shall remain any amount due to it under the provisions of this Agreement, the Company, subject to the provisions of the last paragraph of Article 3 hereof, shall pay the amount of such deficiency to the Vendor upon demand, and, if the Company shall fail to pay the full deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Company. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Company.

The Company, subject to the provisions of the last paragraph of Article 3 hereof, will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 17 are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

ARTICLE 18. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any state shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Company

to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Company, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any unit thereof, and any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Vendor's rights hereunder and any and all rights of redemption.

ARTICLE 19. *Extension not a Waiver.* Any extension of time for payment hereunder or other indulgence duly granted to the Company shall not otherwise alter or affect the Vendor's rights or the obligations of the Company hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Company's obligations or the Vendor's rights hereunder with respect to any subsequent payments or defaults therein.

ARTICLE 20. *Recording.* Prior to the delivery and acceptance of any unit of the Equipment, the Company will cause this Agreement, any assignments hereof by the Company and any supplements hereto and thereto, and prior to the settlement for such unit, the Company will cause any assignment hereof by the Manufacturer and any supplement thereto, in each case (i) to be filed, registered, recorded or deposited and refiled, reregistered, rerecorded or redeposited, with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, (ii) to be deposited in the office of the Registrar General of Canada (and will cause the required notice of

such deposit forthwith thereafter to be published in *The Canada Gazette*) in accordance with Section 86 of the Railway Act of Canada (1970-RSC), and (iii) to be filed in the office of the Minister of Financial and Commercial Affairs of the Province of Ontario, Canada in accordance with Section 3(1) of the Conditional Sales Act of Ontario. The Company will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or re-deposit whenever required) any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection in the United States and the Province of Ontario, Canada, to the satisfaction of the Vendor and its counsel, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement and any assignment hereof. The Company will promptly furnish to the Vendor evidences of such filing, registering, depositing or recording and of such publication of notice of such deposit and an opinion or opinions of counsel with respect thereto, each satisfactory to the Vendor and its counsel.

ARTICLE 21. *Payment of Expenses.* The Company will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Manufacturer) incident to the preparation and execution of this Agreement and the first assignment of this Agreement and, if the first assignee is not acting as an agent or trustee, any subsequent assignment to such an agent or trustee (including the fees and expenses of such agent or trustee or successor thereto), or any instrument supplemental thereto, including all reasonable fees and expenses of special counsel for the first assignee of this Agreement.

ARTICLE 22. *Notice.* Any notice hereunder to any party designated below shall be deemed to be properly

served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) the Company: P. O. Box 2097 Termiral Annex, Los Angeles, California 90051, *attention of* Leasing Division;

(b) the Manufacturer: the address specified in Item 2 of Annex A hereto;

(c) any assignee of the Vendor, or of the Company: such address as may have been furnished in writing to the Company, or the Vendor, as the case may be, by such assignee;

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement. The Company represents and warrants that its chief place of business is in California.

ARTICLE 23. *Satisfaction of Undertakings.* The obligations of the Company under Articles 6, 7, 8, 9, 10, 12, 13 and the second paragraph of Article 17 hereunder shall be deemed in all respects satisfied by the Lessee's undertakings contained in §§ 4, 5, 7, 8, 10 and 11 of the Lease except, in respect of Article 12, to the extent excepted pursuant to the first sentence of the last paragraph of Article 3 hereof. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 16.

ARTICLE 24. *Effect and Modification of Agreement.* This Agreement and the Annexes hereto exclusively and completely state the rights and agreements of the Vendor and the Company with respect to the Equipment and supersede all other agreements, oral or written, with respect to

ANNEX A

Item 1: General Motors Corporation (Electro-Motive Division), LaGrange, Illinois 60525.

Item 2: The Manufacturer warrants that the Equipment is of the kind and quality described in, or will be built in accordance with, the Specifications referred to in Article 1 of the Conditional Sale Agreement to which this Annex A is attached (hereinafter in this Annex A called the Agreement) and is suitable for the ordinary purposes for which the Equipment is used and warrants each unit of the Equipment to be free from defects in material and workmanship which may develop under normal use and service within two years from date of delivery of such unit or before such unit has been operated 250,000 miles, whichever event shall first occur. The Manufacturer agrees to correct such defects, which examination shall disclose to the Manufacturer's satisfaction to be defective, by repair or replacement F. O. B. factory and such correction shall constitute fulfillment of the Manufacturer's obligation with respect to such defect under this warranty.

The Manufacturer warrants specialties not of its own specification or design to the same extent that the suppliers of such specialties warrant such items to the Manufacturer.

There are no warranties with respect to material and workmanship, expressed or implied, made by the Manufacturer except the warranties set out above.

Notwithstanding anything to the contrary contained in the Agreement, it is understood and agreed that there will be incorporated in each unit

of the Equipment a limited number of used components which will be remanufactured by the Manufacturer and will be the equivalent of new components.

The Manufacturer reserves the right to make changes in the design of, or add any improvements to, units of the Equipment at any time without incurring any obligation to make similar changes or additions in respect of units of the Equipment previously delivered to the Lessee.

The Manufacturer further agrees with the Lessee that neither the inspection as provided in Article 2 of the Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 2 shall be deemed a waiver or a modification by the Lessee of any of its rights under this Item 2.

Item 3: Except to the extent the Manufacturer is obligated under the Agreement to indemnify, protect and hold harmless the Company and each assignee of any of the rights of the Manufacturer under the Agreement, the Lessee agrees to indemnify, protect and hold harmless the Company and each such assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against each such assignee because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, article or material which infringes or is claimed to infringe on any patent or other right.

The Manufacturer shall defend any suit or proceeding brought against the Company, the

Lessee and/or each assignee of the Manufacturer's rights under this Agreement so far as the same is based on a claim that the Equipment of Manufacturer's specification, or any part thereof, furnished under the Agreement constitutes an infringement of any patent, if notified promptly in writing and given authority, information and assistance (at Manufacturer's expense) for the defense of same, and the Manufacturer shall pay all damages and costs awarded therein against the Company, the Lessee and/or any such assignee.

In case any unit of the Equipment, or any part thereof, is in such suit held to constitute infringement and the use of such unit or part is enjoined, the Manufacturer shall at its option and at its own expense either procure for the Company, the Lessee and any such assignee the right to continue using such unit or part, or replace the same with non-infringing equipment subject to the Agreement, or modify it so it becomes non-infringing, or remove such unit and refund the Purchase Price and the transportation and installation costs thereof. If the Purchase Price is so refunded, such refund shall be made to the assignee of the Manufacturer's rights under the Agreement if the Agreement has been so assigned, which refund shall be applied in like manner as payments in respect of Casualty Occurrences under Article 5 of the Agreement.

The Manufacturer will not assume liability for patent infringement by reason of purchase, manufacture, sale or use of devices not included in and covered by its specification.

The foregoing states the entire liability of the Manufacturer for patent infringement by the Equipment or any part thereof.

ANNEX B

Type	Manufacturer's Specifications	Manufacturer's Plant	Quantity	Road Numbers (all numbers inclusive)	Unit Base Price	Total Base Price	Delivery
2,000 h.p. GP-38 AC Diesel Locomotives	Manufacturer's Proposal 70K-33 dated November 13, 1970, Specification 8081 dated January 1, 1971, as amended by 8081-3 dated January 1, 1971.	McCook, Illinois	12	5800-5811	\$225,000	\$2,700,000	Prior to December 31, 1971, at McCook, Illinois

LEASE OF RAILROAD EQUIPMENT

between

SECURITY PACIFIC NATIONAL BANK

and

GRAND TRUNK WESTERN RAILROAD COMPANY

Dated as of November 15, 1971

Filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on December 14, 1971, at 10:35 A.M., Recordation No. 6424-A; and deposited in the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada on December 14, 1971, at 10:50 A.M.

LEASE OF RAILROAD EQUIPMENT dated as of November 15, 1971, between SECURITY PACIFIC NATIONAL BANK, a national banking association (hereinafter called the Lessor) and GRAND TRUNK WESTERN RAILROAD COMPANY, a Michigan corporation (hereinafter called the Lessee).

WHEREAS, the Lessor has entered into a Conditional Sale Agreement dated as of November 15, 1971 (hereinafter called the Conditional Sale Agreement), with General Motors Corporation (Electro-Motive Division) (hereinafter referred to as the Manufacturer), wherein the Manufacturer agrees to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto; and

WHEREAS, the Manufacturer proposes to assign its interest in the Conditional Sale Agreement to John Hancock Mutual Life Insurance Company (hereinafter referred to as the Vendor); and

WHEREAS, the Lessee desires to lease all the units of said railroad equipment, or such lesser number as are delivered and accepted and settled for under the Conditional Sale Agreement on or prior to December 31, 1971 (hereinafter called the Units), at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS, Canadian National Railway Company, a corporation duly incorporated under the laws of Canada (hereinafter called the Guarantor), of which the Lessee is a wholly-owned subsidiary, has agreed, subject to receipt of the approval of the Governor in Council, to guarantee to the Lessor and the Vendor, as provided in a Guaranty Agreement to be dated as of November 15, 1971 (hereinafter called the Guaranty Agreement), with the Lessor and the Vendor, the due and punctual payment of the sums pay-

able by, and the due and punctual performance of all other obligations of, the Lessee under this Lease;

Now, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Vendor under the Conditional Sale Agreement:

§ 1. *Delivery and Acceptance of Units.* The Lessor will cause each Unit to be tendered to the Lessee at the point or points within the United States of America or Canada at which, and on the date or dates on which, such Unit is delivered to the Lessor under the Conditional Sale Agreement. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit and to execute and deliver to the Lessor and to the Manufacturer a certificate of acceptance and delivery (hereinafter called the Certificate of Delivery), whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. In no event shall the Lessee place any Unit in service or otherwise use any Unit prior to the Lessee's acceptance of delivery of such Unit hereunder.

The Lessee represents and warrants that, at the time of delivery of each Unit to the Lessee, such Unit will not have been used by the Lessee and no amortization or depreciation will have been claimed by the Lessee with respect thereto.

§ 2. *Rentals.* The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease 61 consecutive quarterly payments, payable on the business day next pre-

ceding January 15, April 15, July 15 and October 15 of each year commencing January 15, 1972. The first of such quarterly payments shall be in an amount equal to .0198888% of the Purchase Price (as defined in the Conditional Sale Agreement) of each Unit subject to this Lease for each day elapsed from and including the date such Unit is settled for under the Conditional Sale Agreement to January 15, 1972; the next 20 of such payments shall be in an amount equal to 1.40000% of the Purchase Price of each Unit; and the remaining 40 of such payments shall be in an amount equal to 3.12598% of the Purchase Price of each Unit.

All payments provided for in this Lease to be made to the Lessor shall be paid to the Lessor at P. O. Box 2097, Terminal Annex, Los Angeles, California 90051, *attention of Leasing Division.*

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatement, reductions or setoffs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or the Manufacturer or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use of or destruction of all or any of the Units from whatsoever cause, the prohibition of or other restriction against use of all or any of the Units by the Lessee or any other person, the interference with such use by any private person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the

times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

§ 3. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§ 6, 9 and 12 hereof, shall terminate on the date on which the final quarterly payment of rent in respect thereof is due hereunder.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Units, upon default by the Lessee hereunder, are subordinate, junior in rank and subject to the rights of the Vendor under the Conditional Sale Agreement.

§ 4. *Identification Marks.* The Lessee will cause such Unit to be kept numbered with the identifying number set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, in letters not less than one inch in height, the following words:

"JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY,
BOSTON, MASSACHUSETTS—SECURITY OWNER"

or other appropriate words designated by the Lessor, with appropriate changes therein and additions thereto as from time to time may be required by law in order or protect the title of the Lessor or the Vendor to such Unit and the rights of the Lessor under this Lease and of the Vendor under the Conditional Sale Agreement. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in ac-

cordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§ 5. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal or Canadian (Dominion or Provincial) or Mexican taxes (other than any United States federal income tax and, to the extent that the Lessor receives credit for such taxes against its United States federal income tax liability, any Canadian [Dominion or Provincial] or Mexican income tax, payable by the Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments, duties or license fees, and any charges, fines or penalties in connection therewith (all such expenses, taxes, assessments, duties, license fees, charges, fines and penalties being hereinafter called impositions), hereafter levied or imposed upon or in connection with or measured by, this Lease or any sale,

rental, use, payment, shipment, import, export, delivery or transfer of title under the terms hereof or of the Conditional Sale Agreement, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. At the option of the Lessor, such payment of impositions by the Lessee shall be made directly to the appropriate taxing authority. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon such Unit; *provided, however*, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor, materially adversely affect the property or rights of the Lessor hereunder or under the Conditional Sale Agreement. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of invoice therefor.

In the event that the Lessor shall become obligated to make any payment to the Manufacturer or the Vendor pursuant to Article 9 of the Conditional Sale Agreement not covered by the foregoing paragraph of this § 5, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations to the Manufacturer and the Vendor pursuant to said Article 9.

In the event any reports with respect to impositions are

required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Vendor in such Units or notify the Lessor and the Vendor of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor and the Vendor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any impositions pursuant to this § 5, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

§ 6. *Payment for Casualty Occurrences.* In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged or damaged beyond economic repair, from any cause whatsoever or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease, the Lessee shall promptly after it shall have determined that such Unit has suffered a Casualty Occurrence, fully inform the Lessor and the Vendor in regard thereto. On the next succeeding rental payment date the Lessee shall pay to the Lessor a sum equal to the Casualty Value, as hereinafter defined, of such Unit as of the date of such payment in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate. The Lessor shall, upon request of the Lessee, after payment by the Lessee of a sum equal to the Casualty Value of any Unit execute and deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Unit or for any Unit abandoned pursuant to § 13 hereof.

The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price applicable to such Unit set forth in the schedule set out below opposite the number of such rental payment date:

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
1	101.125000%	32	85.436399%
2	101.256618	33	84.391760
3	104.037591	34	81.108809
4	103.924133	35	79.963927
5	106.398090	36	76.702617
6	106.023996	37	75.466922
7	108.285004	38	72.227964
8	107.636926	39	70.385771
9	109.561193	40	67.672031
10	108.621916	41	66.233309
11	110.301811	42	63.045593
12	109.056240	43	61.493688
13	110.486893	44	58.335140
14	109.097883	45	56.680606
15	110.457358	46	53.552138
16	108.981732	47	51.777273
17	110.239035	48	48.682330
18	108.675519	49	46.798328
19	109.874251	50	43.737941
20	108.266733	51	41.725968
21	109.413735	52	38.703912
22	106.035703	53	36.575856
23	105.416006	54	33.593292
24	102.050810	55	31.329099
25	101.355375	56	28.390162
26	98.003488	57	26.002472
27	97.219139	58	23.108469
28	93.882732	59	20.575913
29	93.017942	60	17.731370
30	89.697557	61	15.000000
31	88.738377		

Notwithstanding the foregoing, the Casualty Value of each Unit as of any rental payment date occurring after the expiration of the original term of this Lease shall be the lesser of 15% of the Purchase Price applicable to such Unit or the Fair Market Value of such Unit determined in accordance with the provisions of § 12 hereof.

Except as hereinabove in this § 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

Although the Lessee shall not be required to maintain insurance on any Unit, the Lessee agrees that the benefits of any insurance maintained by it upon the Units will be made available to the Lessor and the Vendor, as their interests may appear, to the extent the Lessee is permitted to do so under such policies of insurance. Any net insurance proceeds as the result of insurance carried by the Lessee or proceeds of payments from any governmental agency as compensation for requisition by condemnation received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 6. If the Lessor shall receive any such net insurance proceeds or any such condemnation payments after the Lessee shall have made payments pursuant to this § 6 without deduction for such net insurance proceeds or such condemnation payments, the Lessor shall pay such proceeds to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds shall remain the property of the Lessor.

§ 7. *Annual Reports.* On or before March 1 in each year commencing with the year 1973, the Lessee will cause

to be furnished to the Lessor and the Vendor in such number of counterparts or copies as may reasonably be requested an accurate statement, as of the preceding January 1, (a) showing the amount, description and numbers of the Units then leased hereunder, the amount, description and number of all Units that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by § 4 hereof and Article 8 of the Conditional Sale Agreements shall have been preserved or replaced. The Lessor shall have the right at its sole cost and expense, by its authorized representatives, to inspect the Units and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor the existence and proper maintenance thereof during the continuance of this Lease.

§ 8. *Disclaimer of Warranties; Lessor's Representation and Warranties; Compliance with Laws and Rules; Maintenance; and Indemnification.* **The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time,**

in the name and for the account of the Lessor and/or the Lessee, as their interests may appear, whatever claims and rights the Lessor may have, as vendee, under the provisions of Articles 13 and 14 of the Conditional Sale Agreement and Annex A thereto. Lessee's acceptance of delivery of the Units shall be conclusive evidence as between the Lessee and the Lessor that all Units described in the Certificate of Delivery are in all the foregoing respects satisfactory to the Lessee and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessor represents and warrants as follows:

(i) At the time of delivery of each Unit under this Lease, the Lessor shall have such title to such Unit as is derived from the Manufacturer, unimpaired by any act or omission of the Lessor which will in any manner prevent the performance of this Lease in accordance with its terms and, in addition, such Unit shall be free and clear of all claims, liens and encumbrances which may result from claims against the Lessor not arising out of the ownership thereof which will prevent the performance of this Lease in accordance with its terms; and

(ii) So long as the Lessee shall not be in default under this Lease, the Lessor shall not do (or suffer to be done by any person claiming through or against the Lessor and not against the Lessee or any sublessee) any act which interferes with any and all rights of the Lessee to peaceably and quietly hold, possess and use the Units in accordance with the terms of this Lease.

The Lessor covenants that any sale, assignment, transfer, mortgage or other disposition which it may make of this Lease or of any Unit, whether prior or subsequent to

delivery to the Lessee, shall be expressly subject to the terms and provisions of this Lease; *provided, however*, that this Lease shall be subordinated to the rights of the Vendor under the Conditional Sale Agreement but neither the Lessor nor the Vendor shall have the right to terminate or impair the Lessee's possession or use of the property subject to this Lease so long as the Lessee shall not be in default under this Lease; and, subject to the foregoing, covenants that the Lessor has not done and will not do (or suffer to be done by any person claiming through or against the Lessor) any act which interferes with or impairs (x) the Lessee's possession and use in accordance with the terms of this Lease of the Units or (y) the title to the Units which may be transferred or conveyed to the Lessee under the provisions of §§ 6 and 12 of this Lease and that any title so conveyed shall then be free of any lien, claim and encumbrance of the Vendor.

The Lessor covenants and agrees not to alter, amend or modify the Conditional Sale Agreement without the prior written consent of the Lessee.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects with all laws of the jurisdictions in which the Units may be operated, with the interchange rules of the Association of American Railroads, if applicable, and with all lawful rules of the Department of Transportation and the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units. In the event that such laws or rules require alteration of the Units or in case any equipment or appliance on any such Unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Unit in order to comply

with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, changes, additions and replacements at its own expense; and the Lessee agrees at its own expense to use, maintain and operate such Unit in full compliance with such laws, regulations, requirements and rules so long as it is subject to this Lease; *provided, however*, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, materially adversely affect the property or rights of the Lessor or the Vendor hereunder or under the Conditional Sale Agreement.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good order and repair, reasonable wear and tear excepted.

Any and all additions to any Unit and any and all parts installed on or replacements made to any Unit shall be considered accessions to such Unit (except such as can be removed without damage to, and without impairing the originally intended function or use of, such Unit, including without limitation, racks or partitions [hereinafter called Temporary Alterations]), and at the cost and expense of the Lessee, full ownership thereof free of any lien, charge, security interest or encumbrance (except for those created by the Conditional Sale Agreement) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself. Upon termination of this Lease, the Lessee will remove the Temporary Alterations from the Units and restore the Units to satisfactory operating condition and to their original physical condition at the time of delivery thereof to the Lessee hereunder, reasonable wear and tear excepted.

The Lessee agrees to indemnify and save harmless the Lessor and the Vendor against any charge or claim made

against the Lessor or the Vendor, and against any expense, loss or liability (including but not limited to counsel fees and expenses, patent liabilities, penalties and interest) which the Lessor or the Vendor may incur in any manner by reason of entering into or the performance of the Conditional Sale Agreement or this Lease or by reason of the ownership of any Unit, or which may arise in any manner out of or as the result of the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit under this Lease. The Lessee further agrees to indemnify and save harmless the Lessor and the Vendor against any charge, claim, expense, loss or liability on account of any accident in connection with the operation, use, condition, possession or storage of any Unit resulting in damage to property or injury to any person; *provided, however*, that the Lessee shall not be required to indemnify the Lessor or the Vendor under this paragraph for negligence on the part of the Lessor or the Vendor unless such negligence is attributed to the Lessor or the Vendor solely by reason of their interests in the Units. The indemnities arising under this paragraph shall survive payment of all other obligations under this Lease or the termination of this Lease. Anything herein to the contrary notwithstanding, the Lessee shall not be obligated to indemnify under this paragraph in respect of any charge, claim, expense, loss or liability attributable to a Unit which, and to an event occurring after such Unit, shall have been returned to the Lessor pursuant to §§ 10 or 13 hereof or after this Lease with respect to such Unit has otherwise terminated; *provided, however*, that such charge, claim, expense, loss or liability does not arise as a result of mechanical defects of such Unit which existed at the time such Unit was so returned or this Lease with respect to such Unit terminated.

The Lessee agrees to prepare and deliver to the Lessor and Vendor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

§ 9. *Default.* If during the continuance of this Lease, one or more of the following events (hereinafter sometimes called Events of Default) shall occur:

A. default shall be made in the payment of any part of the rental provided in § 2 hereof and such default shall continue for 10 days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 25 days after written notice from the Lessor specifying the default and demanding that the same be remedied;

D. any proceedings shall be commenced by or against the Lessee or the Guarantor for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder or the Guarantor under the Guaranty Agreement) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then

only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or of the Guarantor under the Guaranty Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or the Guarantor or for the property of the Lessee or the Guarantor in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceeding shall have been commenced, whichever shall be earlier; or

E. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier;

then, in any such case, the Lessor, at its option may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the

Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the use of the Unit during such period, such present value to be computed in each case on a basis of a 5% per annum discount, compounded

quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the Rapid Amortization Deduction (as hereinafter defined) available to non-railroad lessors of railroad equipment which was lost, not claimed, not available for claim, disallowed or recaptured in respect of any Unit as a result of the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default. Notwithstanding anything to the contrary contained in this clause (b), it is understood and agreed that the Lessee shall receive a credit in respect of the amounts payable pursuant to sub-clause (i) of this clause (b) equal to any net proceeds received by the Lessor upon the sale or the releasing of the Units.

Anything in this § 9 to the contrary notwithstanding, any default in the observance or performance of any covenant, condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance

with respect to the Lessor of, all or any portion of the amortization deduction with respect to any Unit provided for in Section 184 of the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Rapid Amortization Deduction), available to non-railroad lessors of railroad equipment, shall be, for all purposes of this Lease, deemed to be cured if the Lessee shall, on or before the next rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance of the Rapid Amortization Deduction in respect of such Unit, agree to pay to the Lessor the revised rental rate in respect of such Unit determined as provided in the second paragraph of § 15 of this Lease.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

§ 10. *Return of Units Upon Default.* If this Lease shall terminate pursuant to § 9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. For the pur-

called the Collateral Assignment), by and between the Lessor and the Investor;

WHEREAS as an inducement to the Lessor to enter into the Lease with the Lessee and to lease the Units, or any of them, to the Lessee and as an inducement to the Investor to invest in the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement) pursuant to which the Lessor is financing its purchase of the Units, the Guarantor has agreed to guarantee as hereinafter provided, subject to receipt of the approval of the Governor in Council, all obligations and covenants of the Lessee under the Lease and the Consent, including the guaranty of the Lessee mentioned in the third paragraph of this preamble; and

WHEREAS the approval of the Governor in Council to the guaranty hereinafter set out has been received;

NOW, THEREFORE, in consideration of the premises and the execution and delivery of the Lease and of other good and valuable consideration and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Guarantor hereby unconditionally guarantees to the Lessor and the Investor the due and punctual payment by the Lessee of all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease, including, without limitation, payments under and by virtue of the guaranty set forth in § 17 of the Lease, due and to be due under the Lease or otherwise in respect of the Units thereunder, and the due and punctual performance of all obligations of the Lessee under the Lease.

2. The Guarantor hereby guarantees such payments according to the original terms of the Lease, notwithstand-

ing any reduction or modification of the obligations of the Lessee thereunder brought about by price control, rent control, or other economic stabilization legislation or other measures of the United States Government from time to time in effect.

3. The Guarantor hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of the Lease or this Agreement or any conduct of the Lessee and/or the Lessor which might constitute a legal or equitable discharge of a surety or guarantor and irrespective of any circumstances which might limit the recourse of the Investor or the Lessor to the Lessee. The Guarantor hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver of the Lessor of any of its rights hereunder or under the Lease and no action by the Lessor to enforce any of its rights hereunder or under the Lease or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

4. The Guarantor hereby acknowledges that it has received copies of the Lease, the Conditional Sale Agreement, the Assignment and the Collateral Assignment and is fully aware of all the terms and conditions of each such agreement.

5. This Agreement shall in all respects be governed by and construed in accordance with the laws of the Province of Ontario.

IN WITNESS WHEREOF, the parties, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly author-

ized officers and their respective corporate seals hereunder to be affixed and duly attested, as of the date first above written.

CANADIAN NATIONAL RAILWAY
COMPANY,

by W. R. CORNER
Vice President

APPROVED
AS TO FORM
WV
ASST. GENERAL
SOLICITOR

[CORPORATE SEAL]

Attest:

J. M. YOUNG
Deputy Secretary

SECURITY PACIFIC NATIONAL
BANK,

by CHARLES D. PEARCE
Vice President

[CORPORATE SEAL]

Attest:

M. L. MARKER
Assistant Secretary

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY,

by DAVID M. MUNRO
Senior Investment Officer

[CORPORATE SEAL]

Attest:

BARBARA B. JOHNSON
Assistant Secretary

AMENDMENT OF LEASE OF RAILROAD
EQUIPMENT dated as of November 15, 1971,
between Security Pacific National Bank, a
national banking association (hereinafter
called the Lessor) and Grand Trunk Western
Railroad Company, a Michigan corporation
(hereinafter called the Lessee).

WHEREAS the Lessor and the Lessee have entered
into a Lease of Railroad Equipment dated as of November 15,
1971 (hereinafter called the Lease), under which units of
railroad equipment described in Schedule A thereto are
leased; and

WHEREAS, by a Collateral Assignment of Lease and
Agreement dated as of November 15, 1971, by and between the
Lessor and John Hancock Mutual Life Insurance Company (herein-
after called the Investor), the Lessor has assigned for security
purposes its rights in, to and under the Lease to the Investor
and notice of such assignment has been duly acknowledged by
the Lessee: and

WHEREAS, by a Guaranty Agreement dated as of
November 15, 1971, among Canadian National Railway Company,
a corporation incorporated under the laws of Canada (herein-
after called the Guarantor), the Lessor and the Investor, the

*Filed and recorded with the Interstate Commerce Commission pur-
suant to Section 20(c) of the Interstate Commerce Act on August 1,
1972, at 1:15 p.m., Recordation No. 6424--D; and deposited in the
office of the Registrar General of Canada pursuant to Section 86 of
the Railway Act of Canada on August 21, 1972, at 2:00 p.m.

Guarantor has agreed to guarantee to the Lessor and the Investor, the due and punctual payments by the Lessee provided for in the Lease;

WHEREAS the Lessee and the Lessor desire to amend the Lease to reflect the election by the Lessor to claim a 7% investment credit in lieu of the rapid amortization deduction with respect to the cost of the units of equipment and the Investor and Guarantor consent to such amendment;

NOW, THEREFORE, in consideration of the premises and of good and valuable consideration, the parties hereto agree as follows:

1. The first paragraph of Section 2 is amended to substitute for the number 3.12598 the number 2.9851.

2. The second paragraph of Section 6 is amended to read as follows:

"The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price applicable to such Unit set forth in the schedule set out below opposite the number of such rental payment date:

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
1	101.5000	32	77.6382
2	101.3128	33	76.9117
3	103.8107	34	73.9367
4	103.4920	35	73.0954
5	105.8219	36	70.1250

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
6	105.3635	37	69.1712
7	107.5872	38	66.2058
8	106.9958	39	65.1339
9	109.0523	40	62.1801
10	108.3196	41	60.9943
11	110.2659	42	58.0528
12	109.3985	43	56.7452
13	106.1027	44	53.8230
14	105.0923	45	52.3996
15	106.7607	46	49.4976
16	105.6138	47	47.9503
17	107.1332	48	45.0814
18	105.8577	49	43.4231
19	107.3490	50	40.5886
20	106.0408	51	38.8062
21	102.4155	52	36.0176
22	99.4891	53	34.1266
23	99.3136	54	31.3854
24	96.3730	55	29.3666
25	96.0882	56	26.6772
26	93.1336	57	24.5430
27	92.7400	58	21.9071
28	89.7770	59	19.6372
29	84.1978	60	17.0597
30	81.2268	61	15.0000
31	80.6114		

"

3. Clause (b) of the first paragraph and the entire second paragraph of Section 9 are amended to read as follows:

"(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (1) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present

value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the use of the Unit during such period, such present value to be computed in each case on a basis of a 5% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated;

(ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental; (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to any portion of the 7% investment credit (hereinafter called the Investment Credit) with respect to the Purchase Price of the Units pursuant to Section 38 and related sections of the Internal Revenue Code of 1954, as amended, lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 15 or any other provision of the Lease or the sale

or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default and (iv) plus such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the maximum depreciation deduction (hereinafter called the ADR Deduction) authorized with respect to a Unit under Section 167 of the Internal Revenue Code utilizing the "class life" prescribed in accordance with Section 167(m) of said Code which was lost, not claimed, not available for claim, disallowed or recaptured in respect of a Unit as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 15 or any other provision of this Lease, the termination of this Lease, the Lessee's loss of the right to use such Unit or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default. Notwithstanding anything to the contrary contained in this clause (b), it is understood and agreed that the Lessee shall receive a credit in respect of the amounts payable pursuant to subclause (i) of this clause (b) equal to any net proceeds received by the Lessor upon the sale or the releasing of the Units.

Anything in this § 9 to the contrary notwithstanding, any default in the observance or performance of any covenant,

condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance with respect to the Lessor of, all or any portion of the Investment Credit or ADR Deduction shall be, for all purposes of this Lease, deemed to be cured if the Lessee shall, on or before the next rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance of the Investment Credit or ADR Deduction, agree to pay to the Lessor the revised rental rate in respect of such Units determined as provided in the second paragraph of § 15 of this Lease."

4. Section 15 is amended to read as follows:

"§ 15. Federal Income Taxes. The Lessor, as the owner of each Unit, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), to an owner of property, including (without limitation) an allowance for the Investment Credit and the ADR Deduction (each as defined in § 9 of this Lease) with respect to the Units to the extent so provided.

The Lessee represents and warrants that (i) none of the Units constitutes property the construction, reconstruction or erection of which was begun before April 1, 1971; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute 'new section 38 property' within the meaning

of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude 'the original use of such property' within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) at all times during the term of this Lease, each Unit will constitute 'Section 38 property' within the meaning of Section 48(a) of the Code.

If (other than for the reasons set forth below) the Lessor shall lose, or shall not have or shall lose the rights to claim, or if (other than for the reasons set forth below) there shall be disallowed with respect to the Lessor, all or any portion of the Investment Credit or ADR Deduction with respect to any Unit, the rental rate applicable to such Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Investment Credit or ADR Deduction has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit

under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of the Investment Credit or ADR Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the loss of all or any portion of the Investment Credit or ADR Deduction; provided, however, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor, all or any portion of the Investment Credit or ADR Deduction with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under § 6 hereof;

(ii) a voluntary transfer by the Lessor (other than by the assignment of this Lease to the Vendor) of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the amendment either of the Conditional Sale Agreement or of the assignment of this Lease to the Vendor without the prior written consent of the Lessee;

(iv) the failure of the Lessor to claim the Investment Credit or ADR Deduction, as applicable, in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming the Investment Credit or ADR Deduction, as applicable; or

(v) the failure of the Lessor to have sufficient liability for tax against which to credit such Investment Credit or sufficient income to benefit from the ADR Deduction, as applicable.

The Lessor agrees that if, in the opinion of its or Lessee's independent tax counsel (herein referred to as Counsel), bona fide claim to all or a portion of the Investment Credit or ADR Deduction on any Unit, exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed including interest thereon pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if

the final determination shall be adverse to the Lessor, the Lessee shall pay to Lessor interest on the amount of the tax and interest paid attributable to such Investment Credit or ADR Deduction disallowed, computed at the rate of 8% per annum from the date of payment of such tax and interest to the date the Lessee shall reimburse the Lessor for such tax and interest in accordance with the provisions of this § 15. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have agreed in writing to indemnify the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 15 shall survive the expiration or other termination of this Lease.

The Lessor shall receive a written opinion of Messrs. Sheppard, Mullin, Richter & Hampton addressed to the Lessor to the effect that for federal income tax purposes:

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to (i) the 7%

Now, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 13 hereof, the Company hereby assigns, transfers and sets over unto the Investor, as collateral security for the payment and performance of the Company's obligations under the Conditional Sale Agreement, all the Company's right, title and interest as Lessor under the Lease, together with all rights, powers, privileges, and other benefits of the Company as Lessor under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Company from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, payments with respect to the guarantee of the Conditional Sale Agreement by the Lessee provided for in § 17 of the Lease or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Company, as Lessor, is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Company hereby irrevocably authorizes and empowers the Investor in its own name, or the name of its nominee, or (with the consent of the Company) in the name of the Company or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Company is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

As agent for the Investor, the Company agrees to accept all Payments to be made by the Lessee and to hold and disburse the Payments in accordance with the instructions of the Investor, and in the absence of any such instructions, *first* to the Investor to satisfy the obligations of the Company under the terms of the Conditional Sale Agreement (subject to the limitations and provisions of the last paragraph of Article 3 thereof) and, *second*, to the extent the Payments are in excess of the amounts required to satisfy such obligations of the Company, the balance of such Payments may be retained by the Company.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Investor to, or transfer, or pass, or in any way affect or modify the liability of the Company under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Company to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Company or persons other than the Investor.

3. To protect the security afforded by this Assignment the Company agrees as follows:

(a) The Company will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Company; without the written consent of the Investor, the Company will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner

and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Company agrees that any amendment, modification or termination thereof without such consent shall be void.

(b) At the Company's sole cost and expense, the Company will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of the Company under the Lease.

(c) Should the Company fail to make any payment or to do any act which this Assignment requires the Company to make or do, then the Investor, but without obligation so to do, after first making written demand upon the Company and affording the Company a reasonable period of time within which to make such payment or do such act, but without releasing the Company from any obligation hereunder, may make or do the same in such manner and to such extent as the Investor may deem necessary to protect the security hereof, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Investor, and also the right to perform and discharge each and every obligation, covenant and agreement of the Company contained in the Lease; and in exercising any such powers, the Investor may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Company will reimburse the Investor for such costs, expenses and fees with interest at 9% per annum.

4. The Company does hereby constitute the Investor the Company's true and lawful attorney, irrevocably, with full

power (in the name of the Company, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Company is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any actions or institute any proceedings which to the Investor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Company's obligations under the Conditional Sale Agreement, this Assignment and all rights herein assigned to the Investor shall terminate, and all estate, right, title and interest of the Investor in and to the Lease shall revert to the Company.

6. The Company represents and warrants that (a) the execution and delivery by the Company of the Lease, this Assignment and the Conditional Sale Agreement have each been duly authorized, and the Lease, this Assignment and the Conditional Sale Agreement are and will remain the valid and binding obligations of the Company in accordance with their terms, (b) the Company has not executed any other assignment of the Lease and the Investor's right to receive all payments under the Lease is and will continue to be free and clear of any and all liens, agreements, security interests or other encumbrances, (c) notwithstanding this Assignment, the Company will conform and comply with each and all of the covenants and conditions in the Lease and the Conditional Sale Agreement set forth to be complied with by it, (d) to the knowledge of the Company, it has performed all obligations on its part to be performed under the Lease and the Conditional Sale Agreement on or

prior to the date hereof and (e) the Lease and the Conditional Sale Agreement are in full force and effect and have not been canceled and to the knowledge of the Company there has not occurred on or prior to the date hereof any event of default under the Conditional Sale Agreement or any event which with notice and/or lapse of time would constitute such an event of default.

If an event of default under the Conditional Sale Agreement shall occur and be continuing, the Investor may declare all sums secured hereby immediately due and payable and may at its option without notice and without regard to the adequacy of the security of the sums hereby secured, either in person or by an agent with or without bringing any action or proceeding or by a receiver to be appointed by a court, take possession of and operate the Units or any part thereof in accordance with the terms of the Conditional Sale Agreement and do any acts which the Investor deems proper to protect the security hereof, either with or without taking possession of the Units. The taking possession of the Units and the taking of any action permitted as aforesaid shall not cure or waive any default or waive, modify or affect any default hereunder or under the Lease or invalidate any act done hereunder.

7. The Company covenants and agrees with the Investor that in any suit, proceeding or action brought by the Investor, as assignee of the Company's right, title and interest under the Lease for any instalment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, the Company will save, indemnify and keep the Investor harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Lessee or its successors arising out of a breach by the Company of any obligation under the Lease or arising

out of any other indebtedness or liability at any time owing to the Lessee or its successors from the Company. Any and all such obligations of the Company shall be and remain enforceable against and only against the Company and shall not be enforceable against the Investor or any party or parties in whom any of the rights of the Company under the Lease shall vest by reason of successive assignments or transfers.

8. The Company will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Investor in order to confirm or further assure, the interests of the Investor hereunder.

9. The Investor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Investor hereunder.

10. This Assignment shall be governed by the laws of the State of California, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and Section 86 of the Railway Act of Canada (1970-RSC).

11. The Company shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Investor at its office at 200 Berkeley Street, Boston, Massachusetts

02117, *attention of* Bond and Stock Department (in the case of notices) or Treasury Department (in the case of payments), or at such other address as the Investor shall designate.

12. The Company will promptly cause this Assignment to be filed and recorded in accordance with § 18 of the Lease.

13. Anything herein or in the Lease or in the Conditional Sale Agreement contained to the contrary notwithstanding:

(a) the Company may, but shall be under no obligation to, cure any Event of Default (as Event of Default is defined in § 9 of the Lease) suffered or permitted to occur by the Lessee under the Lease by making any payment (whether of rent, casualty payment, indemnity payment or other payment) or by performing any act which the Lease requires the Lessee to make or perform. Upon the making of any such payment or the performance of any such act by the Company, the Event of Default under the Lease or any event of default under the Conditional Sale Agreement which occurred in consequence of the Lessee's having failed to make such payment or to perform such act, shall for all purposes of both the Lease and the Conditional Sale Agreement be deemed to have been cured to the same extent as if the Lessee had made such payment or performed such act. The curing of any Event of Default by the Company shall not be deemed to impose any obligation or liability upon the Company to cure any subsequent Event of Default suffered or permitted to occur by the Lessee; and

(b) the Investor for itself and its successors and assigns, hereby agrees with the Company and its succes-

sors and assigns, that the Investor will not, so long as no Event of Default under the Lease or an event of default under the Conditional Sale Agreement has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Company to the Investor by this Assignment.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

SECURITY PACIFIC NATIONAL BANK,

[CORPORATE SEAL]

by CHARLES D. PEARCE
Vice President

Attest:

M. L. MARKER
Assistant Secretary

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY,

by DAVID M. MUNRO
Senior Investment Officer

[CORPORATE SEAL]

Attest:

JAMES H. YOUNG
Assistant Secretary

GUARANTY AGREEMENT

GUARANTY AGREEMENT dated as of November 15, 1971, among CANADIAN NATIONAL RAILWAY COMPANY, a corporation duly incorporated under the laws of Canada (hereinafter called the Guarantor), SECURITY PACIFIC NATIONAL BANK, a national banking association (hereinafter called the Lessor) and JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY (hereinafter called the Investor).

WHEREAS the Lessor has entered into a Conditional Sale Agreement dated as of November 15, 1971 (hereinafter called the Conditional Sale Agreement), with GENERAL MOTORS CORPORATION, (Electro-Motive Division) (hereinafter called the Manufacturer), providing for the sale to the Lessor of such units of railroad equipment (hereinafter called the Units) described in Annex B to the Conditional Sale Agreement as are delivered to and accepted thereunder by the Lessor;

WHEREAS the Manufacturer has assigned its interest in the Conditional Sale Agreement to the Investor, pursuant to the Agreement and Assignment dated as of November 15, 1971 (hereinafter called the Assignment);

WHEREAS the Lessor and Grand Trunk Western Railroad Company (hereinafter called the Lessee), a wholly owned subsidiary of the Guarantor, have entered into a Lease of Railroad Equipment dated as of November 15, 1971 (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units and pursuant to which the Lessee guarantees payment of certain sums payable by the Lessor under the Conditional Sale Agreement;

WHEREAS the Lessor has assigned the Lease to the Investor pursuant to a Collateral Assignment of Lease and Agreement dated as of November 15, 1971 (hereinafter

AGREEMENT AND ASSIGNMENT dated as of November 15, 1971, between GENERAL MOTORS CORPORATION (Electro-Motive Division) (hereinafter called the Manufacturer), and JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY (hereinafter called the Assignee).

WHEREAS, the Manufacturer and SECURITY PACIFIC NATIONAL BANK (hereinafter called the Company), have entered into a Conditional Sale Agreement dated as of November 15, 1971 (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Manufacturer and the purchase by the Company of the railroad equipment described in Annex B to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. The Manufacturer hereby assigns, transfers, and sets over unto the Assignee, its successors and assigns:

(a) All the right, title and interest of the Manufacturer in and to each unit of the Equipment;

(b) All the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement (except the right to construct and deliver the Equipment and the right to receive the payment specified in subparagraph (a) of the third paragraph of Article 3 thereof and reimbursement for taxes paid or incurred

Filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on December 14, 1971, at 10:35 A.M., Recordation No. 6424-B; and deposited with the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada on December 14, 1971, at 10:50 A.M.

by the Manufacturer), and in and to any and all amounts which may be or become due or owing to the Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Company under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) Except as limited by subparagraph (b) of this paragraph, all the Manufacturer's rights, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse, however, against the Manufacturer for or on account of the failure of the Company to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; *provided, however*, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Manufacturer to deliver the Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements contained or referred to in Articles 13 and 14 of the Conditional Sale Agreement or Annex A thereto or relieve the Company from its obligations to the Manufacturer contained or referred to in Articles 1, 2, 3, 9 and 13 of, and Annex A to, the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment or any subsequent assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Company with respect to the Equipment shall be and remain enforceable by the Company, its successors and assigns, against and

only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Company with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Manufacturer covenants and agrees that it will construct and deliver the Equipment to the Company in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Manufacturer. The Manufacturer further covenants and agrees that it will warrant to the Assignee and the Company that at the time of delivery of each unit of the Equipment to the Company under the Conditional Sale Agreement it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Company under the Conditional Sale Agreement and the rights of the Lessee under the Lease (as such terms are defined in the Conditional Sale Agreement); and the Manufacturer further covenants and agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to said delivery of such unit by the Manufacturer to the Company; all *subject, how-*

ing any reduction or modification of the obligations of the Lessee thereunder brought about by price control, rent control, or other economic stabilization legislation or other measures of the United States Government from time to time in effect.

3. The Guarantor hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of the Lease or this Agreement or any conduct of the Lessee and/or the Lessor which might constitute a legal or equitable discharge of a surety or guarantor and irrespective of any circumstances which might limit the recourse of the Investor or the Lessor to the Lessee. The Guarantor hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver of the Lessor of any of its rights hereunder or under the Lease and no action by the Lessor to enforce any of its rights hereunder or under the Lease or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

4. The Guarantor hereby acknowledges that it has received copies of the Lease, the Conditional Sale Agreement, the Assignment and the Collateral Assignment and is fully aware of all the terms and conditions of each such agreement.

5. This Agreement shall in all respects be governed by and construed in accordance with the laws of the Province of Ontario.

IN WITNESS WHEREOF, the parties, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly author-

ized officers and their respective corporate seals hereunder
to be affixed and duly attested, as of the date first above
written.

CANADIAN NATIONAL RAILWAY
COMPANY,

by W. R. CORNER
Vice President

APPROVED
AS TO FORM
WV
ASST. GENERAL
SOLICITOR

[CORPORATE SEAL]

Attest:

J. M. YOUNG
Deputy Secretary

SECURITY PACIFIC NATIONAL
BANK,

by CHARLES D. PEARCE
Vice President

[CORPORATE SEAL]

Attest:

M. L. MARKER
Assistant Secretary

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY,

by DAVID M. MUNRO
Senior Investment Officer

[CORPORATE SEAL]

Attest:

BARBARA B. JOHNSON
Assistant Secretary

AMENDMENT OF LEASE OF RAILROAD
EQUIPMENT dated as of November 15, 1971,
between Security Pacific National Bank, a
national banking association (hereinafter
called the Lessor) and Grand Trunk Western
Railroad Company, a Michigan corporation
(hereinafter called the Lessee).

WHEREAS the Lessor and the Lessee have entered
into a Lease of Railroad Equipment dated as of November 15,
1971 (hereinafter called the Lease), under which units of
railroad equipment described in Schedule A thereto are
leased; and

WHEREAS, by a Collateral Assignment of Lease and
Agreement dated as of November 15, 1971, by and between the
Lessor and John Hancock Mutual Life Insurance Company (herein-
after called the Investor), the Lessor has assigned for security
purposes its rights in, to and under the Lease to the Investor
and notice of such assignment has been duly acknowledged by
the Lessee: and

WHEREAS, by a Guaranty Agreement dated as of
November 15, 1971, among Canadian National Railway Company,
a corporation incorporated under the laws of Canada (herein-
after called the Guarantor), the Lessor and the Investor, the

*Filed and recorded with the Interstate Commerce Commission pur-
suant to Section 20(c) of the Interstate Commerce Act on August 1,
1972, at 1:15 p.m., Recordation No. 6424--D; and deposited in the
office of the Registrar General of Canada pursuant to Section 86 of
the Railway Act of Canada on August 21, 1972, at 2:00 p.m.

Guarantor has agreed to guarantee to the Lessor and the Investor, the due and punctual payments by the Lessee provided for in the Lease;

WHEREAS the Lessee and the Lessor desire to amend the Lease to reflect the election by the Lessor to claim a 7% investment credit in lieu of the rapid amortization deduction with respect to the cost of the units of equipment and the Investor and Guarantor consent to such amendment;

NOW, THEREFORE, in consideration of the premises and of good and valuable consideration, the parties hereto agree as follows:

1. The first paragraph of Section 2 is amended to substitute for the number 3.12598 the number 2.9851.

2. The second paragraph of Section 6 is amended to read as follows:

"The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price applicable to such Unit set forth in the schedule set out below opposite the number of such rental payment date:

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
1	101.5000	32	77.6382
2	101.3128	33	76.9117
3	103.8107	34	73.9367
4	103.4920	35	73.0954
5	105.8219	36	70.1250

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
6	105.3635	37	69.1712
7	107.5872	38	66.2058
8	106.9958	39	65.1339
9	109.0523	40	62.1801
10	108.3196	41	60.9943
11	110.2659	42	58.0528
12	109.3985	43	56.7452
13	106.1027	44	53.8230
14	105.0923	45	52.3996
15	106.7607	46	49.4976
16	105.6138	47	47.9503
17	107.1332	48	45.0814
18	105.8577	49	43.4231
19	107.3490	50	40.5886
20	106.0408	51	38.8062
21	102.4155	52	36.0176
22	99.4891	53	34.1266
23	99.3136	54	31.3854
24	96.3730	55	29.3666
25	96.0882	56	26.6772
26	93.1336	57	24.5430
27	92.7400	58	21.9071
28	89.7770	59	19.6372
29	84.1978	60	17.0597
30	81.2268	61	15.0000
31	80.6114		

"

3. Clause (b) of the first paragraph and the entire second paragraph of Section 9 are amended to read as follows:

"(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (1) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present

value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the use of the Unit during such period, such present value to be computed in each case on a basis of a 5% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated;

(ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental; (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to any portion of the 7% investment credit (hereinafter called the Investment Credit) with respect to the Purchase Price of the Units pursuant to Section 38 and related sections of the Internal Revenue Code of 1954, as amended, lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 15 or any other provision of the Lease or the sale

or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default and (iv) plus such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the maximum depreciation deduction (hereinafter called the ADR Deduction) authorized with respect to a Unit under Section 167 of the Internal Revenue Code utilizing the "class life" prescribed in accordance with Section 167(m) of said Code which was lost, not claimed, not available for claim, disallowed or recaptured in respect of a Unit as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 15 or any other provision of this Lease, the termination of this Lease, the Lessee's loss of the right to use such Unit or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default. Notwithstanding anything to the contrary contained in this clause (b), it is understood and agreed that the Lessee shall receive a credit in respect of the amounts payable pursuant to subclause (i) of this clause (b) equal to any net proceeds received by the Lessor upon the sale or the releasing of the Units.

Anything in this § 9 to the contrary notwithstanding, any default in the observance or performance of any covenant,

condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance with respect to the Lessor of, all or any portion of the Investment Credit or ADR Deduction shall be, for all purposes of this Lease, deemed to be cured if the Lessee shall, on or before the next rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance of the Investment Credit or ADR Deduction, agree to pay to the Lessor the revised rental rate in respect of such Units determined as provided in the second paragraph of § 15 of this Lease."

4. Section 15 is amended to read as follows:

"§ 15. Federal Income Taxes. The Lessor, as the owner of each Unit, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), to an owner of property, including (without limitation) an allowance for the Investment Credit and the ADR Deduction (each as defined in § 9 of this Lease) with respect to the Units to the extent so provided.

The Lessee represents and warrants that (i) none of the Units constitutes property the construction, reconstruction or erection of which was begun before April 1, 1971; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute 'new section 38 property' within the meaning

of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude 'the original use of such property' within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) at all times during the term of this Lease, each Unit will constitute 'Section 38 property' within the meaning of Section 48(a) of the Code.

If (other than for the reasons set forth below) the Lessor shall lose, or shall not have or shall lose the rights to claim, or if (other than for the reasons set forth below) there shall be disallowed with respect to the Lessor, all or any portion of the Investment Credit or ADR Deduction with respect to any Unit, the rental rate applicable to such Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Investment Credit or ADR Deduction has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit

under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of the Investment Credit or ADR Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the loss of all or any portion of the Investment Credit or ADR Deduction; provided, however, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor, all or any portion of the Investment Credit or ADR Deduction with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under § 6 hereof;

(ii) a voluntary transfer by the Lessor (other than by the assignment of this Lease to the Vendor) of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the amendment either of the Conditional Sale Agreement or of the assignment of this Lease to the Vendor without the prior written consent of the Lessee;

(iv) the failure of the Lessor to claim the Investment Credit or ADR Deduction, as applicable, in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming the Investment Credit or ADR Deduction, as applicable; or

(v) the failure of the Lessor to have sufficient liability for tax against which to credit such Investment Credit or sufficient income to benefit from the ADR Deduction, as applicable.

The Lessor agrees that if, in the opinion of its or Lessee's independent tax counsel (herein referred to as Counsel), bona fide claim to all or a portion of the Investment Credit or ADR Deduction on any Unit, exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed including interest thereon pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if

the final determination shall be adverse to the Lessor, the Lessee shall pay to Lessor interest on the amount of the tax and interest paid attributable to such Investment Credit or ADR Deduction disallowed, computed at the rate of 8% per annum from the date of payment of such tax and interest to the date the Lessee shall reimburse the Lessor for such tax and interest in accordance with the provisions of this § 15. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have agreed in writing to indemnify the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 15 shall survive the expiration or other termination of this Lease.

The Lessor shall receive a written opinion of Messrs. Sheppard, Mullin, Richter & Hampton addressed to the Lessor to the effect that for federal income tax purposes:

A. the Lessor will be considered the owner of the Units; and

B. the Lessor will be entitled to (i) the 7%

Now, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 13 hereof, the Company hereby assigns, transfers and sets over unto the Investor, as collateral security for the payment and performance of the Company's obligations under the Conditional Sale Agreement, all the Company's right, title and interest as Lessor under the Lease, together with all rights, powers, privileges, and other benefits of the Company as Lessor under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Company from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, payments with respect to the guarantee of the Conditional Sale Agreement by the Lessee provided for in § 17 of the Lease or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Company, as Lessor, is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Company hereby irrevocably authorizes and empowers the Investor in its own name, or the name of its nominee, or (with the consent of the Company) in the name of the Company or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Company is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

As agent for the Investor, the Company agrees to accept all Payments to be made by the Lessee and to hold and disburse the Payments in accordance with the instructions of the Investor, and in the absence of any such instructions, *first* to the Investor to satisfy the obligations of the Company under the terms of the Conditional Sale Agreement (subject to the limitations and provisions of the last paragraph of Article 3 thereof) and, *second*, to the extent the Payments are in excess of the amounts required to satisfy such obligations of the Company, the balance of such Payments may be retained by the Company.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Investor to, or transfer, or pass, or in any way affect or modify the liability of the Company under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Company to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Company or persons other than the Investor.

3. To protect the security afforded by this Assignment the Company agrees as follows:

(a) The Company will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Company; without the written consent of the Investor, the Company will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner

and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Company agrees that any amendment, modification or termination thereof without such consent shall be void.

(b) At the Company's sole cost and expense, the Company will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of the Company under the Lease.

(c) Should the Company fail to make any payment or to do any act which this Assignment requires the Company to make or do, then the Investor, but without obligation so to do, after first making written demand upon the Company and affording the Company a reasonable period of time within which to make such payment or do such act, but without releasing the Company from any obligation hereunder, may make or do the same in such manner and to such extent as the Investor may deem necessary to protect the security hereof, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Investor, and also the right to perform and discharge each and every obligation, covenant and agreement of the Company contained in the Lease; and in exercising any such powers, the Investor may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Company will reimburse the Investor for such costs, expenses and fees with interest at 9% per annum.

4. The Company does hereby constitute the Investor the Company's true and lawful attorney, irrevocably, with full

power (in the name of the Company, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Company is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any actions or institute any proceedings which to the Investor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Company's obligations under the Conditional Sale Agreement, this Assignment and all rights herein assigned to the Investor shall terminate, and all estate, right, title and interest of the Investor in and to the Lease shall revert to the Company.

6. The Company represents and warrants that (a) the execution and delivery by the Company of the Lease, this Assignment and the Conditional Sale Agreement have each been duly authorized, and the Lease, this Assignment and the Conditional Sale Agreement are and will remain the valid and binding obligations of the Company in accordance with their terms, (b) the Company has not executed any other assignment of the Lease and the Investor's right to receive all payments under the Lease is and will continue to be free and clear of any and all liens, agreements, security interests or other encumbrances, (c) notwithstanding this Assignment, the Company will conform and comply with each and all of the covenants and conditions in the Lease and the Conditional Sale Agreement set forth to be complied with by it, (d) to the knowledge of the Company, it has performed all obligations on its part to be performed under the Lease and the Conditional Sale Agreement on or

prior to the date hereof and (e) the Lease and the Conditional Sale Agreement are in full force and effect and have not been canceled and to the knowledge of the Company there has not occurred on or prior to the date hereof any event of default under the Conditional Sale Agreement or any event which with notice and/or lapse of time would constitute such an event of default.

If an event of default under the Conditional Sale Agreement shall occur and be continuing, the Investor may declare all sums secured hereby immediately due and payable and may at its option without notice and without regard to the adequacy of the security of the sums hereby secured, either in person or by an agent with or without bringing any action or proceeding or by a receiver to be appointed by a court, take possession of and operate the Units or any part thereof in accordance with the terms of the Conditional Sale Agreement and do any acts which the Investor deems proper to protect the security hereof, either with or without taking possession of the Units. The taking possession of the Units and the taking of any action permitted as aforesaid shall not cure or waive any default or waive, modify or affect any default hereunder or under the Lease or invalidate any act done hereunder.

7. The Company covenants and agrees with the Investor that in any suit, proceeding or action brought by the Investor, as assignee of the Company's right, title and interest under the Lease for any instalment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, the Company will save, indemnify and keep the Investor harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Lessee or its successors arising out of a breach by the Company of any obligation under the Lease or arising

out of any other indebtedness or liability at any time owing to the Lessee or its successors from the Company. Any and all such obligations of the Company shall be and remain enforceable against and only against the Company and shall not be enforceable against the Investor or any party or parties in whom any of the rights of the Company under the Lease shall vest by reason of successive assignments or transfers.

8. The Company will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Investor in order to confirm or further assure, the interests of the Investor hereunder.

9. The Investor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Investor hereunder.

10. This Assignment shall be governed by the laws of the State of California, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and Section 86 of the Railway Act of Canada (1970-RSC).

11. The Company shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Investor at its office at 200 Berkeley Street, Boston, Massachusetts

02117, *attention of* Bond and Stock Department (in the case of notices) or Treasury Department (in the case of payments), or at such other address as the Investor shall designate.

12. The Company will promptly cause this Assignment to be filed and recorded in accordance with § 18 of the Lease.

13. Anything herein or in the Lease or in the Conditional Sale Agreement contained to the contrary notwithstanding:

(a) the Company may, but shall be under no obligation to, cure any Event of Default (as Event of Default is defined in § 9 of the Lease) suffered or permitted to occur by the Lessee under the Lease by making any payment (whether of rent, casualty payment, indemnity payment or other payment) or by performing any act which the Lease requires the Lessee to make or perform. Upon the making of any such payment or the performance of any such act by the Company, the Event of Default under the Lease or any event of default under the Conditional Sale Agreement which occurred in consequence of the Lessee's having failed to make such payment or to perform such act, shall for all purposes of both the Lease and the Conditional Sale Agreement be deemed to have been cured to the same extent as if the Lessee had made such payment or performed such act. The curing of any Event of Default by the Company shall not be deemed to impose any obligation or liability upon the Company to cure any subsequent Event of Default suffered or permitted to occur by the Lessee; and

(b) the Investor for itself and its successors and assigns, hereby agrees with the Company and its succes-

sors and assigns, that the Investor will not, so long as no Event of Default under the Lease or an event of default under the Conditional Sale Agreement has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Company to the Investor by this Assignment.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

SECURITY PACIFIC NATIONAL BANK,

[CORPORATE SEAL]

by CHARLES D. PEARCE
Vice President

Attest:

M. L. MARKER
Assistant Secretary

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY,

by DAVID M. MUNRO
Senior Investment Officer

[CORPORATE SEAL]

Attest:

JAMES H. YOUNG
Assistant Secretary

GUARANTY AGREEMENT

GUARANTY AGREEMENT dated as of November 15, 1971, among CANADIAN NATIONAL RAILWAY COMPANY, a corporation duly incorporated under the laws of Canada (hereinafter called the Guarantor), SECURITY PACIFIC NATIONAL BANK, a national banking association (hereinafter called the Lessor) and JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY (hereinafter called the Investor).

WHEREAS the Lessor has entered into a Conditional Sale Agreement dated as of November 15, 1971 (hereinafter called the Conditional Sale Agreement), with GENERAL MOTORS CORPORATION, (Electro-Motive Division) (hereinafter called the Manufacturer), providing for the sale to the Lessor of such units of railroad equipment (hereinafter called the Units) described in Annex B to the Conditional Sale Agreement as are delivered to and accepted thereunder by the Lessor;

WHEREAS the Manufacturer has assigned its interest in the Conditional Sale Agreement to the Investor, pursuant to the Agreement and Assignment dated as of November 15, 1971 (hereinafter called the Assignment);

WHEREAS the Lessor and Grand Trunk Western Railroad Company (hereinafter called the Lessee), a wholly owned subsidiary of the Guarantor, have entered into a Lease of Railroad Equipment dated as of November 15, 1971 (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units and pursuant to which the Lessee guarantees payment of certain sums payable by the Lessor under the Conditional Sale Agreement;

WHEREAS the Lessor has assigned the Lease to the Investor pursuant to a Collateral Assignment of Lease and Agreement dated as of November 15, 1971 (hereinafter

called the Collateral Assignment), by and between the Lessor and the Investor;

WHEREAS as an inducement to the Lessor to enter into the Lease with the Lessee and to lease the Units, or any of them, to the Lessee and as an inducement to the Investor to invest in the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement) pursuant to which the Lessor is financing its purchase of the Units, the Guarantor has agreed to guarantee as hereinafter provided, subject to receipt of the approval of the Governor in Council, all obligations and covenants of the Lessee under the Lease and the Consent, including the guaranty of the Lessee mentioned in the third paragraph of this preamble; and

WHEREAS the approval of the Governor in Council to the guaranty hereinafter set out has been received;

NOW, THEREFORE, in consideration of the premises and the execution and delivery of the Lease and of other good and valuable consideration and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Guarantor hereby unconditionally guarantees to the Lessor and the Investor the due and punctual payment by the Lessee of all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease, including, without limitation, payments under and by virtue of the guaranty set forth in § 17 of the Lease, due and to be due under the Lease or otherwise in respect of the Units thereunder, and the due and punctual performance of all obligations of the Lessee under the Lease.

2. The Guarantor hereby guarantees such payments according to the original terms of the Lease, notwithstand-

ing any reduction or modification of the obligations of the Lessee thereunder brought about by price control, rent control, or other economic stabilization legislation or other measures of the United States Government from time to time in effect.

3. The Guarantor hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of the Lease or this Agreement or any conduct of the Lessee and/or the Lessor which might constitute a legal or equitable discharge of a surety or guarantor and irrespective of any circumstances which might limit the recourse of the Investor or the Lessor to the Lessee. The Guarantor hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver of the Lessor of any of its rights hereunder or under the Lease and no action by the Lessor to enforce any of its rights hereunder or under the Lease or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

4. The Guarantor hereby acknowledges that it has received copies of the Lease, the Conditional Sale Agreement, the Assignment and the Collateral Assignment and is fully aware of all the terms and conditions of each such agreement.

5. This Agreement shall in all respects be governed by and construed in accordance with the laws of the Province of Ontario.

IN WITNESS WHEREOF, the parties, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly author-

ized officers and their respective corporate seals hereunder to be affixed and duly attested, as of the date first above written.

CANADIAN NATIONAL RAILWAY
COMPANY,

by W. R. CORNER
Vice President

APPROVED
AS TO FORM
WV
ASST. GENERAL
SOLICITOR

[CORPORATE SEAL]

Attest:

J. M. YOUNG
Deputy Secretary

SECURITY PACIFIC NATIONAL
BANK,

by CHARLES D. PEARCE
Vice President

[CORPORATE SEAL]

Attest:

M. L. MARKER
Assistant Secretary

JOHN HANCOCK MUTUAL LIFE
INSURANCE COMPANY,

by DAVID M. MUNRO
Senior Investment Officer

[CORPORATE SEAL]

Attest:

BARBARA B. JOHNSON
Assistant Secretary

AMENDMENT OF LEASE OF RAILROAD
EQUIPMENT dated as of November 15, 1971,
between Security Pacific National Bank, a
national banking association (hereinafter
called the Lessor) and Grand Trunk Western
Railroad Company, a Michigan corporation
(hereinafter called the Lessee).

WHEREAS the Lessor and the Lessee have entered
into a Lease of Railroad Equipment dated as of November 15,
1971 (hereinafter called the Lease), under which units of
railroad equipment described in Schedule A thereto are
leased; and

WHEREAS, by a Collateral Assignment of Lease and
Agreement dated as of November 15, 1971, by and between the
Lessor and John Hancock Mutual Life Insurance Company (herein-
after called the Investor), the Lessor has assigned for security
purposes its rights in, to and under the Lease to the Investor
and notice of such assignment has been duly acknowledged by
the Lessee: and

WHEREAS, by a Guaranty Agreement dated as of
November 15, 1971, among Canadian National Railway Company,
a corporation incorporated under the laws of Canada (herein-
after called the Guarantor), the Lessor and the Investor, the

*Filed and recorded with the Interstate Commerce Commission pur-
suant to Section 20(c) of the Interstate Commerce Act on August 1,
1972, at 1:15 p.m., Recordation No. 6424--D; and deposited in the
office of the Registrar General of Canada pursuant to Section 86 of
the Railway Act of Canada on August 21, 1972, at 2:00 p.m.

Guarantor has agreed to guarantee to the Lessor and the Investor, the due and punctual payments by the Lessee provided for in the Lease;

WHEREAS the Lessee and the Lessor desire to amend the Lease to reflect the election by the Lessor to claim a 7% investment credit in lieu of the rapid amortization deduction with respect to the cost of the units of equipment and the Investor and Guarantor consent to such amendment;

NOW, THEREFORE, in consideration of the premises and of good and valuable consideration, the parties hereto agree as follows:

1. The first paragraph of Section 2 is amended to substitute for the number 3.12598 the number 2.9851.

2. The second paragraph of Section 6 is amended to read as follows:

"The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price applicable to such Unit set forth in the schedule set out below opposite the number of such rental payment date:

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
1	101.5000	32	77.6382
2	101.3128	33	76.9117
3	103.8107	34	73.9367
4	103.4920	35	73.0954
5	105.8219	36	70.1250

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
6	105.3635	37	69.1712
7	107.5872	38	66.2058
8	106.9958	39	65.1339
9	109.0523	40	62.1801
10	108.3196	41	60.9943
11	110.2659	42	58.0528
12	109.3985	43	56.7452
13	106.1027	44	53.8230
14	105.0923	45	52.3996
15	106.7607	46	49.4976
16	105.6138	47	47.9503
17	107.1332	48	45.0814
18	105.8577	49	43.4231
19	107.3490	50	40.5886
20	106.0408	51	38.8062
21	102.4155	52	36.0176
22	99.4891	53	34.1266
23	99.3136	54	31.3854
24	96.3730	55	29.3666
25	96.0882	56	26.6772
26	93.1336	57	24.5430
27	92.7400	58	21.9071
28	89.7770	59	19.6372
29	84.1978	60	17.0597
30	81.2268	61	15.0000
31	80.6114		

"

3. Clause (b) of the first paragraph and the entire second paragraph of Section 9 are amended to read as follows:

"(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (1) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present

value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the use of the Unit during such period, such present value to be computed in each case on a basis of a 5% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated;

(ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental; (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to any portion of the 7% investment credit (hereinafter called the Investment Credit) with respect to the Purchase Price of the Units pursuant to Section 38 and related sections of the Internal Revenue Code of 1954, as amended, lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 15 or any other provision of the Lease or the sale

or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default and (iv) plus such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the maximum depreciation deduction (hereinafter called the ADR Deduction) authorized with respect to a Unit under Section 167 of the Internal Revenue Code utilizing the "class life" prescribed in accordance with Section 167(m) of said Code which was lost, not claimed, not available for claim, disallowed or recaptured in respect of a Unit as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 15 or any other provision of this Lease, the termination of this Lease, the Lessee's loss of the right to use such Unit or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default. Notwithstanding anything to the contrary contained in this clause (b), it is understood and agreed that the Lessee shall receive a credit in respect of the amounts payable pursuant to subclause (i) of this clause (b) equal to any net proceeds received by the Lessor upon the sale or the releasing of the Units.

Anything in this § 9 to the contrary notwithstanding, any default in the observance or performance of any covenant,

condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance with respect to the Lessor of, all or any portion of the Investment Credit or ADR Deduction shall be, for all purposes of this Lease, deemed to be cured if the Lessee shall, on or before the next rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance of the Investment Credit or ADR Deduction, agree to pay to the Lessor the revised rental rate in respect of such Units determined as provided in the second paragraph of § 15 of this Lease."

4. Section 15 is amended to read as follows:

"§ 15. Federal Income Taxes. The Lessor, as the owner of each Unit, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the Code), to an owner of property, including (without limitation) an allowance for the Investment Credit and the ADR Deduction (each as defined in § 9 of this Lease) with respect to the Units to the extent so provided.

The Lessee represents and warrants that (i) none of the Units constitutes property the construction, reconstruction or erection of which was begun before April 1, 1971; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute 'new section 38 property' within the meaning

of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude 'the original use of such property' within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) at all times during the term of this Lease, each Unit will constitute 'Section 38 property' within the meaning of Section 48(a) of the Code.

If (other than for the reasons set forth below) the Lessor shall lose, or shall not have or shall lose the rights to claim, or if (other than for the reasons set forth below) there shall be disallowed with respect to the Lessor, all or any portion of the Investment Credit or ADR Deduction with respect to any Unit, the rental rate applicable to such Unit set forth in § 2 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Investment Credit or ADR Deduction has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased by such amount for such Unit which, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Unit

under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of the Investment Credit or ADR Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest which may be assessed by the United States against the Lessor attributable to the loss of all or any portion of the Investment Credit or ADR Deduction; provided, however, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor, all or any portion of the Investment Credit or ADR Deduction with respect to such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessee shall have paid to the Lessor the amounts stipulated under § 6 hereof;

(ii) a voluntary transfer by the Lessor (other than by the assignment of this Lease to the Vendor) of legal title to such Unit, the disposition by the Lessor of any interest in such Unit or the reduction by the Lessor of its interest in the rentals from such Unit under the Lease, unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the amendment either of the Conditional Sale Agreement or of the assignment of this Lease to the Vendor without the prior written consent of the Lessee;

(iv) the failure of the Lessor to claim the Investment Credit or ADR Deduction, as applicable, in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming the Investment Credit or ADR Deduction, as applicable; or

(v) the failure of the Lessor to have sufficient liability for tax against which to credit such Investment Credit or sufficient income to benefit from the ADR Deduction, as applicable.

The Lessor agrees that if, in the opinion of its or Lessee's independent tax counsel (herein referred to as Counsel), bona fide claim to all or a portion of the Investment Credit or ADR Deduction on any Unit, exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making payment of the amounts claimed including interest thereon pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if

the final determination shall be adverse to the Lessor, the Lessee shall pay to Lessor interest on the amount of the tax and interest paid attributable to such Investment Credit or ADR Deduction disallowed, computed at the rate of 8% per annum from the date of payment of such tax and interest to the date the Lessee shall reimburse the Lessor for such tax and interest in accordance with the provisions of this § 15. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have agreed in writing to indemnify the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 15 shall survive the expiration or other termination of this Lease.

The Lessor shall receive a written opinion of Messrs. Sheppard, Mullin, Richter & Hampton addressed to the Lessor to the effect that for federal income tax purposes:

- A. the Lessor will be considered the owner of the Units; and
- B. the Lessor will be entitled to (i) the 7%

investment credit as provided for in Section 38 of the Internal Revenue Code of 1954, as amended to the date hereof and (ii) depreciation deductions with respect to Units, computed in accordance with any of the methods listed in Section 167(b) of the said Code."

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, as of the date first above written.

SECURITY PACIFIC NATIONAL BANK,

by

Joseph J. LaPaglia
Vice President

[Corporate Seal]

Attest:

M. L. Marker
Assistant Secretary

GRAND TRUNK WESTERN RAILROAD
COMPANY,

by

D. J. Wooden
Vice President

[Corporate Seal]

Attest:

Robert L. Livesay
Secretary

The undersigned hereby consent
to the foregoing amendment to
the Lease of Railroad Company
dated as of November 15, 1971.

JOHN HANCOCK MUTUAL LIFE INSURANCE
COMPANY,

by

R. C. Bosworth
Vice President

CANADIAN NATIONAL RAILWAY COMPANY,

by

J. M. Duncan
Vice President

L. A. Fuller
Assistant Secretary